REPRESENTATIVE ACTIONS AND UNINCORPORATED ASSOCIATIONS—p. 611
"IGNORANTIA JURIS NON EXCUSAT" - - - - - - - - p. 613

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Current Topics: "Chequelets"—Dishonour among Thieves—Costs in Moneylenders' Actions—Recourse to County Court for Relief under s. 1 (2) of Moneylenders Act, 1900—Detention or Arrest—The Arm of the Law is Shortened 609

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"Chequelets."

MR. JUSTICE ROWLATT, following *Committee of London Clearing Bankers* v. *Commissioners of Inland Revenue*, 1896, 1 Q.B. 542, has held that the so-called "chequelets," invented by the Midland Bank, are bills of exchange within s. 32 of the Stamp Act, 1891, and must bear a twopenny stamp accordingly. It was practically common ground that these documents were neither cheques nor bills of exchange within the Bills of Exchange Act, 1882, but the definition in s. 32 is wider and includes documents under which, although not imperative in nature, "persons may be entitled," or which "purport to entitle" them to payments of money. The signed "chequelet," it is true, in no way bound the bank, and probably a creditor could not have sued a debtor on it. But it was at least an authority to the bank to pay at the customer's debit, and in that respect resembled the "transfer order" which was the subject of the 1896 decision; see especially the judgment of KAY, J., on pp. 551-2. Whether the bank will appeal has not been stated, but the *Clearing House Case* was a decision of the Court of Appeal, so, unless it can be definitely distinguished, the appeal must proceed further for a chance of success. The problem really is one for the Legislature rather than the courts. The cheque is perhaps the most common and convenient business document in the world, and, as others have perceived as well as the directors of the Midland Bank, the tax of twopence, at least on amounts falling short of £2, is excessive. Some taxes on the machinery of business are perhaps inevitable, but they should be regarded with extreme jealousy, because they are in effect a deadweight on turnover, and so load prices without any corresponding advantage either to buyer or seller.

Dishonour among Thieves.

THE APPLICATION of JOSEPHINE O'DARE for leave to appeal against her sentence gave the Court of Criminal Appeal an opportunity to make a pronouncement on the question of reduction of sentence as a reward for giving evidence against accomplices. It will be remembered that JOSEPHINE O'DARE was convicted by the Recorder at the Central Criminal Court and put back for sentence. Before sentence she gave evidence against DAVIS and MORTON, and, in applying for leave to appeal, her counsel said, that in the course of her evidence against these men, certain incidents of her life came to light, which apparently adversely affected the Recorder's mind when he came to pass sentence upon her. Counsel claimed that without her evidence the two men could not have been convicted, and that, in securing their conviction, she rendered public service, which should have been rewarded by a light sentence. It would, he said, be in the public interest to encourage such action as hers. The court, in refusing the application, said there was no general principle that a person who gave evidence against a fellow criminal must receive a less sentence because of public service rendered, and it would be wrong to hold out the inducement that there was such a general rule. This pronouncement disposes of a view which had considerable basis in actual practice. It is obvious that if a prisoner, to gratify a desire for revenge against another, or on less reprehensible grounds, "gives away" his accomplice, he must chance the disadvantages which may accrue as well as the advantages he hopes to secure. If his evidence shows him to be a worse person than was thought, he may well suffer by action which he hoped would help him. On the other hand, in an imperfect world, it was well to encourage thieves to fall out that honest men may come by their own. The outspoken judgment of the court will not tend to promote what the Lord Chief Justice aptly called "dishonour among thieves."

Costs in Moneylenders' Actions.

THE QUESTION of costs in moneylenders' actions received careful consideration in the case of *Clive Everton, Ltd.* v. *Hollingsworth*, before Mr. Justice SHEARMAN, on the 21st inst. (unreported). The plaintiffs, a firm of moneylenders, sued the defendant, a farmer, for the balance due under a promissory note which contained the usual default clause. The defendant pleaded that the transaction was harsh and unconscionable. This was found as a fact. Counsel for the defendant, addressing the court on the question of costs, contended that if he had succeeded in the real issue of the action, then there was a discretion as to the whole costs. He referred to the recently decided case of *Temperance Loan Fund* v. *Erwood*, 1927, W.N. 162, to show that it was competent for the court to deprive the plaintiff of his costs when the transaction was re-opened. In that case TALBOT, J., said: "It seemed impossible to say that where a plaintiff made a claim which the court materially reduced on the ground that it was in respect of a transaction harsh and unconscionable, the judge had not, in the absence of some enactment to the contrary, power to refuse to impose upon the defendant the payment of the plaintiff's costs." Mr. Justice SHEARMAN said that he seemed to remember a case where it was held that it was not necessary to find that the transaction was harsh and unconscionable in order to deprive the plaintiff of his costs; it appears, however, not to have been reported. Counsel for

the defendant referred to the fact that although the defendant's affidavit stated that a sum of money had been paid into court, such was not in fact the case, and added that if a sufficient sum had been paid into court then not only could the plaintiff have been deprived, but he might also have got his, the defendant's, costs. Counsel for the plaintiffs submitted that the costs should be paid by the defendants, because the plaintiffs had no option but to come to this court. In the result the costs were given to the plaintiffs up to and including the Order XIV.

Recourse to County Court for Relief under s. 1 (2) of Moneylenders Act, 1900.

An important case, which raised the question of the right of a borrower to have recourse to the county court in an application for relief under s. 1 (2) of the Moneylenders Act, 1900, was recently decided by a Divisional Court in *Crossingham* v. *Park*. A loan of £250 had been made, and the plaintiff, who had made various payments since in respect of principal and interest, amounting to £372 10s., asked the county court for a declaration that the transaction was harsh and unconscionable and further asked that the transaction be re-opened. Now s. 2 (1) of the Moneylenders Act, 1900, provides that "any court in which proceedings might be taken for the recovery of *money lent* by a moneylender may, at the instance of the borrower," re-open a transaction which is harsh and unconscionable, etc. This sub-section differs from sub-s. (1) of s. 1, in the important respect that the latter sub-section refers to proceedings being taken in a court, not only for *money lent*, but also for the *enforcement of any agreement or security* (e.g., agreement to pay interest or expenses, inquiries, fines, bonus, premium, renewals, or any other charges). The Divisional Court considered that the test, as far as jurisdiction for the purposes of sub-s. (2) was concerned, depended on whether the moneylender could have taken proceedings in the court *for money lent*. Mr. Justice Acton thus stated this test in *Crossingham* v *Park*. "If," said the learned judge, the "*whole* amount of the money lent, whether repayable in instalments or otherwise, without the addition of any claims arising under an agreement or agreements, to pay interest, or 'expenses, inquiries, fines, bonus, premium, renewals, or any other charges,' was within the jurisdiction of the county court then, even though the moneylender had not taken any proceedings, and though the time had not come for taking proceedings, the borrower might apply to the county court under the Act, but not otherwise." Now in *Crossingham* v. *Park*, the original loan was for £250, and more than £100 was alleged by the moneylender to be owing to him, and the court accordingly came to the conclusion, notwithstanding that the loan was repayable by monthly instalments of £15, that the county court had no jurisdiction to make a declaration in the circumstances under sub-s. (2) of s. 1.

Detention or Arrest.

In the case of *R.* v. *Robinson* (the Trunk murder case) there appeared, not for the first time, a rather subtle distinction the police now draw between detention and arrest. If these two words do not mean the same thing, the action denoted by the first has no warrant in law. Police powers of arrest, both for crime or upon suspicion of crime, are more or less defined by the law. Police powers of detention are unknown to the law. The distinction is not unconnected with the supposed necessity for the "caution." If a person is under arrest, he must be "cautioned" in the well-known form laid down by the judges; if he be only detained, reasons the police officer, he can be left to make statements without being scared off doing so, or can even be questioned. It is doubtful whether the "caution" does not do more harm than good. It certainly, as Mr. Justice Swift pointed out, goes far beyond any requirement of law. Why should a guilty person be discouraged from incriminating himself, or an innocent one from making a statement which, it may well be, should, in his interests, be made at the earliest possible moment? True, he runs the risk of its being misreported, through carelessness or, less likely, malice. But on the whole, by remaining silent when indignant denial would be natural, the accused runs a greater danger. The whole matter needs re-consideration. The duty of the police officer, dealing with a suspected person, is to keep his ears open and his mouth shut. The imposition of too many artificial trammels leads only to evasion, and, on occasion, to something remarkably like perjury.

The Arm of the Law is Shortened.

The case of *Fritz Castrus Fredericksen*, a Danish galley boy on a British steamer, appears to disclose a hiatus in our law as to murder. It was alleged that, on the vessel, he attacked one Burgess, the third engineer, and that the latter ultimately died, as the result of the injuries thus received, at Las Palmas, to which place the ship had put back on the occurrence. Fredericksen had also stabbed Blagg, a member of the crew, who had attempted to rescue Burgess, but Blagg recovered. On the charge of the attempted murder of both men, Mr. Justice Swift naturally raised objection in view of the death of Burgess. Mr. Eustace Fulton, prosecuting, said there was a technical difficulty as to the charge of murder in the case of Burgess, because of the death on Spanish territory. Ultimately the accused was tried for the attempted murder of Blagg only, and, being found guilty, received sentence of seven years' penal servitude.

Section 10 of the Offences Against the Person Act, 1861, appears to be aimed at a sequence of events of this kind, but evidently the advisers of the Crown did not consider it applicable. It provides for the case of persons being feloniously striken, etc., "upon the sea, or at any place out of England or Ireland," and dying in England or Ireland, and *vice versâ*. Here the stroke was neither in England nor Ireland, but within Admiralty jurisdiction, and the death abroad. Had the prisoner been an Englishman, s. 686 of the Merchant Shipping Act might have been applicable, giving Admiralty jurisdiction, for all offences committed on board a British ship or in a foreign port or harbour by British subjects, but, assuming the alleged offence was not completed on board because of the death of the victim in Spain, s. 686 is not wide enough, though the corresponding section, 267 in the Merchant Shipping Act, 1854, might have been. It may be recollected that the latter section was invoked to over-rule a technical objection to the jurisdiction in *R.* v. *Dudley*, 1884, 14 Q.B.D. 273 (the terrible case in which two starving sailors in an open boat on the Atlantic murdered a boy to eat his flesh), see p. 281.

Section 10, *supra*, reproduces s. 8 of the corresponding Act in 1828 (9 Geo. 4, c. 31), which in turn repealed and re-enacted a 1729 Act (2 Geo. 2, c. 21). If the wording had been "at any place within the jurisdiction," or some similar phrase, instead of "in England or Ireland," the statute would have applied. It was held on the Act of 1729 that where one standing on the shore shot another in the sea, who afterwards died on a ship, the jurisdiction was in Admiralty, see *Coombe's Case*, 1786, quoted 1 East P.C. 367. The matter is discussed in the note to *U.S.* v. *Guiteau* (the murderer of President Garfield), 1882, 47 Am. R. 247, at p. 261, though the actual case was one where the stroke and death were in different "districts" of the same foreign country, and thus coming under 2 & 3 Edw. 6, c. 24 (as at the date of the Declaration of Independence) rather than the Georgian statute. In *Guiteau's Case* the American judges appear to have been of opinion that, at common law, murder was committed in the jurisdiction where the blow was struck, notwithstanding the averment that the victim languished and died elsewhere.

Representative Actions and Unincorporated Associations.

PERHAPS one of the most difficult rules of the Supreme Court is Ord. XVI, r. 9, which deals with the manner in which representative actions may be brought and defended. The decisions thereon not only are difficult to understand, but also appear to be occasionally at variance with one another.

Order XVI, r. 9, provides that: Where there are numerous persons having the same interest in one cause or matter, one or more of such persons may sue or be sued, or may be authorised by the court or a judge to defend in such cause or matter, or for the benefit of all persons concerned.

It is especially in cases where unincorporated associations are suing or being sued that the provisions of Ord. XVI, r. 9, are taken advantage of. Corporations being single entities in the eye of the law, can sue or be sued in their corporate names. Some unincorporated associations, moreover, as for example *registered* trade unions, enjoy to a certain extent the attributes of a corporate body. Thus a registered union may, subject to certain exceptions, sue or be sued in its registered name (*Taff Vale Railway Co.* v. *Amalgamated Society of Railway Servants*, 1901, A.C. 426).

At one time it was thought that the above rule applied only to persons having some beneficial proprietary interest. (*Temperton* v. *Russell*, 1893, 1 Q.B. 435), but in *Bedford* v. *Ellis*, 1901, A.C.1, this limitation of the rule was disapproved of, and its true scope was explained as being as wide as that obtaining in the Court of Chancery, Ord. XVI, r. 9, as the House pointed out, being intended to apply the practice of the Court of Chancery to all divisions of the High Court. Under that practice the court required the presence of all interested parties, in order that a final end might be put to the controversy. The test in order to determine whether the representative procedure is applicable was thus expressed by Lord MACNAGHTEN (*ib.*, at p. 8): "Given a common interest and a common grievance a representative suit was in order, if the relief sought was in its nature beneficial to all whom the plaintiff proposed to represent."

The first point to be considered, therefore, is whether the persons on whose behalf the representative proceedings are intended to be brought have a common interest and a common grievance, and in this connexion, it is necessary to consider what is common to the class and not what differentiates the cases of individual members thereof. Thus if the persons named as plaintiffs are members of a class having a common interest, it does not matter that the nominal plaintiffs may have been wronged or inconvenienced in their individual capacity (*Bedford* v. *Ellis*, per Lord Macnaghten, 1901, A.C., at p. 7). In *Bedford* v. *Ellis* several plaintiffs sued on behalf of themselves and all others the growers of fruit, flowers, vegetables, etc., within the meaning of the Covent Garden Market Act, 1828, to enforce various preferential rights to stands in the market, which they alleged to have been given to the class of growers by the Act. It was held that the plaintiffs were entitled to sue in a representative action, since they had a common interest, and that they were not debarred from doing so by reason of the fact that they had individual causes of action as well. [As to other cases in which the question of "common interest" has been considered, see, for example, *Markt* v. *Knight*, 1910, 2 K.B. 1021; *Aberconway* v. *Whetnall*, 87 L.J., Ch. 524; *Hardie* v. *Chilton*, 43 T.L.R. 477.]

Assuming that there is a common interest and a common grievance, the next point to which attention must be given, when employing the representative procedure, is to see whether the persons who are selected as plaintiffs are sufficiently representative of the class that they are intended to represent (*Taff Vale Case*, 1901, A.C., at p. 438).

Thus if a trade union is suing in a representative capacity, the members of the executive committee and the trustees would, as a general rule, be sufficiently representative (*Taff Vale Case*, *ib.*, at p. 439), but a branch union would not probably be sufficiently representative of its parent union: *Thomas* v. *Portsmouth "A" Branch of the Ship Construction and Shipwrights' Association*, 28 T.L.R. 373.

Defects in this respect may however be remedied by the addition of other persons, and such addition may be done either at the instance of the individual persons who desire to be so joined, or else by order of the court (*Charnock* v. *Court*, 1899, 2 Ch. 35; *Howden* v. *Yorkshire Miners' Association*, 1903, 1 K.B. 308; *Parr* v. *Lancashire and Cheshire Miners' Federation*, 1913, 1 Ch. 375).

Where some of the persons who are made plaintiffs in a representative action refuse to be made plaintiffs, or where some of the persons belonging to the class which is represented have adverse interests, or do not desire to take any part in the proceedings, they may be made defendants. If, however, there are several classes of persons with conflicting interests, each class should be represented: *Wood* v. *Macarthy*, 1893, 1 K.B., at p. 777. In *Wood* v. *McCarthy*, it should be noted, the court compelled persons to become parties to a representative action, and to defend the action on behalf of a number of persons, although they refused to be made such parties (cf. also *Andrews* v. *Salmon*, 1888, W.N. 102).

Where the representative procedure is being adopted, the following practical points with regard to the form of the writ, etc., should carefully be noted:—

(1) The class of persons to be represented should be clearly indicated in the writ (*Markt & Co. Ltd.* v. *Knight Steamship Co. Ltd.*, 1910, 2 K.B., at p. 1033).

(2) The representative capacity should be stated in the title of the writ (*Re Royle*, 5 Ch. D. 540).

(3) It should also be stated in the indorsement, Ord. III, r. 4.

(4) In any case it must be stated in the title of the statement of claim (*Re Tottenham*, 1896, 1 Ch. 628).

In the event of an omission in this respect, however, leave to amend the table of the statement of the claim may be granted.

Where it is intended to sue a large body of persons as defendants by means of the representative procedure, a plaintiff may do so without obtaining any order from the court, or else he may apply by summons or notice under Ord. XXX for a "representation order" ordering one or more of the members of the body in question to be sued or to defend the action on behalf of the others interested.

A plaintiff's choice of the persons whom he desires to make representative defendants is not entirely a free one, and he certainly cannot make what may be described as a random selection (cf. *London Association of Protection for Trade* v. *Greenlands*, 1916, 2 A.C., at p. 39).

Whenever it is intended to sue a large body of persons in a representative action, it will always be found advisable to apply to the court for a representation order. If a plaintiff selects persons to be the representative defendants, he will be faced with this difficulty, i.e., that he may be unable to enforce an order made by the court against any other persons but the persons who are defendants on the record; on the other hand, where a representative order is obtained, an order can be enforced against all the persons comprising the body, on whose behalf the representative defendants have been ordered to defend (*Walker* v. *Sur*, 1914, 2 K.B. 930).

In considering who are the persons who should be made representative defendants, it is always important to enquire whether the body or class has any common fund, and whether it is vested in trustees. In that case, the trustees, at any rate, should be made defendants, since through them the plaintiff, if successful, will be able to get at the funds of the body or association.

In this connexion reference should be made to *Walker* v. *Sur*, 1914, 2 K.B. 930. In that case the plaintiff, who was an architect, sought to recover a sum of money in respect of

professional services rendered by him to an unincorporatd religious society, most of the members of which resided abroad. He brought an action against four members of this body, suing them on their own behalf and on behalf of all the other members of the society. Subsequently, with a view to binding the society, he applied for a representation order, directing the above four members to defend the action on behalf of the whole society. These four persons, however, were not trustees, and it did not appear that there was any common fund. The Court of Appeal held that the representative order could not be made, since the above four persons were not the trustees, and were not otherwise representative; and the court pointed out that that being so an order, if obtained by the plaintiff, would only be enforceable against the four named defendants on the record, and not against any other members of the society, and that an order could only have this latter effect where a representative order was made (which would, of course, only be made in a proper case) or apparently, it is submitted, where it was shown that the representative defendants were truly representative of the body on whose behalf they were defending the action (cf. also *Hardie* v. *Chilton*, 43 T.L.R. 477).

Walker v. *Sur*, it will be noted, was a case of contract, and it may be material to inquire how far that all the representative procedure may be applied in an action for tort against an unincorporated association of persons.

The first difficulty that will be experienced in such cases, will be that it will be practically impossible to bring home to every member of the association the authorisation of the alleged tort, and unless this can be done, it seems that a representative action for tort brought against some members of the body, who would be sued on behalf of themselves and all the other members, would be misconceived (cf. *London Association of Protection for Trade* v. *Greenlands*, 1916, 2 A.C., at p. 20.

Otherwise, there seems no reason why an unincorporated association may not be sued in tort by means of the representative procedure, although there are *dicta* to the contrary (cf., for example, *Markt's Case*, 1910, 2 K.B. 1021). The weight of authority appears, however, to be in favour of the view that such a body may be sued in tort by means of the representative procedure. Thus Lord Macnaghten, in the *Taff Vale Case*, 1901, A.C., at p. 439, suggested that an unincorporated body might be sued in a representative action for poisoning or fouling a stream. Again, in *Vacher* v. *London Society of Compositors*, 1913, A.C., at p. 120, Lord Atkinson, in speaking of the liability of a trade union to be sued in tort at the time of the passing of the Trade Disputes Act, 1906, said: "Under the decisions in the cases of *Duke of Bedford* v. *Ellis* and *The Taff Vale Case*, it must, I think, be taken (1) that a trade union, registered or *unregistered* could be sued in respect of *torts* committed by its agents in *a representative action* . . ."

Implied Agreement to allow Actor to Perform.

We had occasion (*ante*, p. 420), to consider the decision of Mr. Justice Horridge in *Marbe* v. *George Edwardes* (*Daly's Theatre*) *Ltd.*, 43 T.L.R. 460. That decision has now been affirmed by the Court of Appeal (*Times*, 16th July). The point that was raised in this case was whether, where an actor is engaged to perform a part, an agreement is to be implied to allow the actor to perform, for breach of which damages are recoverable.

It is not, of course, in every case that such an agreement will be implied, but where a contract is made for the purpose of obtaining publicity, and the element of publicity enters into the bargain, such an agreement will be implied: *Bunning* v. *Lyric Theatre*, 71 L.T.R. 396.

The material facts in *Marbe* v. *George Edwardes* (*Daly's Theatre*) were as follows: The plaintiff, as the defendants well knew, was an American actress of position, and she was engaged by the defendants to play a part in a piece to be produced in London. It was important from her point of view that she should have the engagement in question, and that she should in fact play the part, and of those matters the defendants were aware. At the time of entering into the contract, a special arrangement was made that the defendants should advertise the plaintiff in a prominent position, and she was in fact so advertised after the contract had been entered into.

The plaintiff attended the rehearsals, but on the day of the dress rehearsal she was informed that she would not be allowed to play the part, and she was not in fact allowed to do so. The plaintiff accordingly brought an action for damages, claiming *inter alia* damages for breach of the implied agreement to allow her to perform the part in question.

Both Mr. Justice Horridge and the Court of Appeal held that the plaintiff was entitled to these damages (in addition to the salary she had lost by reason of the defendants' breach of contract). In his judgment in the Court of Appeal the Master of the Rolls considered that the principle was established by the authorities, that in the case of an actor or an actress, where the engagement was accompanied by a contract or promise with regard to publicity, and a full opportunity of obtaining the advantage which would follow from a successful performance had not been given the measure of damages would include such damages as a jury might award for loss of publicity.

It is submitted that the correct principle is that the damages which are awarded in such a case, are damage for the *loss of publicity* occasioned by the refusal of the employer to allow the employee to perform the part and by the prevention of the artiste's obtaining such publicity and that such damages are not in respect of any loss of reputation occasioned thereby.

As Lord Loreburn said in *Addis* v. *Gramophone Co. Ltd.*, 1909, A.C., at p. 491: "If there be a wrongful dismissal, the employer must pay an indemnity; but that indemnity cannot include compensation either for the injured feelings of the servant or for the loss he may sustain from the fact that his having been dismissed of itself makes it more difficult for him to obtain fresh employment."

Defeasance of Vested Estate on Marriage with Blood Relation.

A somewhat unusual case was tried before Mr. Justice Russell, in which the effect of a clause in a will, providing that if the beneficiary under the will should marry a blood relation, any children of such beneficiary should lose all interest under the will was considered: *Re Lanyon*: *Lanyon* v. *Lanyon*.

In the first place it is necessary to consider the meaning of "blood relationship." Mr. Justice Russell was of opinion that no reference to statutory next-of-kin was meant thereby and that the above expression "described the relationship existing between two or more persons who stood in lawful descent from a common ancestor. The claim of descent might be broken by illegitimacy, but with that qualification all persons descended from a common ancestor, however remote, were blood relations."

Now, if this is the meaning of "blood relationship," it is clear that it would be very difficult, if not practically impossible, for the beneficiary under the will to know for certain whether or not he would be breaking the condition by marrying any particular person. The question therefore arose whether the above condition was void for uncertainty.

Mr. Justice RUSSELL held that the clause was not void for uncertainty, and he derived the following principle from such cases as *Clavering* v. *Ellis*, 3 Drew. 451; *Re Exmouth*, 23 Ch. D. 153, and *Re Sandbrook*, 1912, 2 Ch. 471, viz., that the testator must indicate in clear terms what the event is on which the defeasance of a vested estate is to take effect, but that a difficulty in ascertaining whether the defined event has or has not occurred will not render such a clause void for uncertainty, it not being necessary that the person affected by the clause should at all times be in a position to know whether he was acting in breach of the prohibition.

Applying these principles to *Re Lanyon*, Mr. Justice RUSSELL held, inasmuch as the prescribed event on which the estate was to be defeated was quite clear, that the clause was not void for uncertainty, notwithstanding that it might be difficult for the beneficiary to know whether or not a particular marriage would be contrary to the provisions contained therein.

Another objection, however, was taken to the validity of the clause, it being argued that the clause was void on ground of public policy, since it was in unreasonable restraint of marriage. While a partial restraint may be good, yet, if the restraint is unnecessarily or unreasonably wide, the courts will declare it void.

Thus, while conditions prohibiting marriage with persons born in Scotland or of Scottish parents (*Perrin* v. *Lyon*, 9 East, 170), or with persons not professing the Jewish religion or of Jewish birth (*Hodgson* v. *Halford*, 11 Ch. D. 959), have been held good, a condition prohibiting marriage without certain consents, and further prohibiting marriage with a person unless he be seised of an estate in fee simple, or of freehold property of the clear yearly value of £500, has been held void, as being in unreasonable restraint of marriage (*Kelly* v. *Monck*, 3 Ridgeway, 205). In enunciating the principle of the common law the Lord Chancellor stated (*ib.*, at p. 261) that "the law allows reasonable restraints upon marriage; but that conditions prohibiting marriage or leading to a probable prohibition of marriage are condemned upon principles of sound and general policy."

Mr. Justice RUSSELL appears to have applied this latter principle in *Re Lanyon* in holding that the prohibition against marrying any blood relation was void as being in unreasonable restraint of marriage, since, as the learned judge pointed out, according to that provision the beneficiary could only be certain that he was marrying a blood relation, but could never be certain that he was not, so that the provision in question was practically tantamount to a complete prohibition of marriage.

It might be useful to note the observations of Mr. Justice RUSSELL as to the validity of partial restraints. The learned judge said that "All partial restraints of marriage were not necessarily valid because they were partial only. It was not enough to say that a particular restraint was not a general restraint but left open a field of choice and was therefore valid. Considerations of public policy required more than that. There still remained to consider in each case whether the particular restraint was reasonable from the point of view of public policy. A restraint which from its nature, although in its terms partial, would or might lead in practice to a probable prohibition of marriage would fall within the mischief which public policy required should be prevented."

"Ignorantia Juris non Excusat."

A CORRESPONDENT in a Sunday newspaper has raised the question as to how far our legal system imputes knowledge of the law to the subject. Obviously the presumption that everyone knows every detail of our whole complicated scheme of common law, custom, statute law, and case law would be a very wild legal fiction—even when applied to the profession itself! Indeed, cases like *Allen* v. *Flood*, 1898, A.C. 1; *Kerr* v. *Bryde*, 1923, A. C.16, and *Scott* v. *Scott*, 1913, A.C. 417, show that appeals may proceed from court to court in fire, works of violent disagreement between the very chosen expositors of the law. And what could be simpler than the major proposition of *Allen* v. *Flood*, that a lawful action is not made unlawful by a malicious motive? Yet *Quinn* v. *Leathem*, 1901, A.C. 495, goes far to establish the converse, that a malicious motive may taint with illegality an action otherwise permissible, and the debate on the Trades Disputes Bill illustrates the confusion.

Reminder may therefore first be made that the legal maxim applies to crime and contract only, a very considerable limitation. Even so, it must still be regarded as a legal fiction, for no one knows the whole of our law, even in those two branches; but its operation becomes intelligible. If murderers had to be acquitted because they had never read the first section of the Offences against the Person Act, 1861, perhaps the solicitor ARMSTRONG would have been the only man hanged in England this century. And in fair contract, untainted with fraud, it would be hard to bind one party by the ignorance of law of the other.

The incidence of the rule as to crime is very well established. In *R.* v. *Crawshaw*, 1860, Bell C.C. 303, where the charge was one of keeping a lottery, the jury held the prisoner acted innocently because he did not know the law, but ERLE, C.J., laid down that his ignorance was no excuse for him. The presumption of knowledge is even extended to foreigners, as in *R.* v. *Esop*, 1836, 7 C. & P. 436 (the case of a Turk alleged to have committed an offence against our law which would not have been one against his own). *Barronet's Case*, 1852, I E. & B. 1, involved two Frenchmen, who had been seconds in a fatal duel in England. They pleaded that their own custom and honour required them so to act. Lord CAMPBELL observed, p. 4, "These two gentlemen are foreigners; but, having come to this country, they are precisely in the same position as if they were native subjects; and they must meet with the same measure of justice that would be given to native subjects, even of the highest rank."

A possible exception to the rule is indicated in *Bailey's Case*, 1800, 1 Russ. & R. 1. The prisoner was tried, under 39 Geo. III, c. 37, an Act as to offences on the high seas, passed 10th May, 1799. The offence alleged was committed off the coast of Africa on the 27th June following, and the judges held that the prisoner could not have known of it. They therefore were of opinion that, "it would be proper to apply for a pardon." Even here, however, the liberation of the accused must be regarded as an act of grace rather than an acquittal. *Burns* v. *Nowell*, 1880, 5 Q.B.D. 444, was another curious case arising out of a voyage begun before the Kidnapping Act, 1872, had come into operation, and finishing afterwards, and which would have constituted an offence against it. Modern lawyers might possibly like to know the position of an offender against a law in existence, but not published by the King's Printer at the date of the offence, for there is often a considerable interval between the operation of a statute and the possibility of a subject reading the text.

In the case of an offender who had erred innocently, there would be a reasonable certainty that the sentence would be mitigated in accordance with the circumstances. In view of the authorities cited above, however, a judge would direct a jury that the prisoner's ignorance of the law was not a matter for them to take into any account in finding their verdict.

As to contracts, the general rule that the mistake of one party as to the law determining the construction of a contract will not entitle him to relief against the other is illustrated by such cases as *The Midland & G. W. Railway of Ireland* v. *Johnson & Kinder*, 1858, 6 H.L.C. 798 and *Jackson* v. *Stopford*,

1923, 2 I.R. In the latter, a lessor covenanted to pay all rates, taxes and impositions whatever on certain premises if the lessee paid a fixed rent. By a certain Irish statute, however, the poor-rate was made payable by the lessee in all cases, agreement otherwise between lessor and lessee being made void. The lessee claimed rectification or to have the lease cancelled, but the claim was refused, after a review of the English and Irish authorities, by the High Court of Appeal in Ireland, affirming the decision of the Court of Appeal in Southern Ireland and the judgment of GORDON, J., in the Court of First Instance. *Stewart* v. *Kennedy*, 1890, 15 A.C. 108, was a Scottish case, but the rule as enunciated by Lord WATSON would apply to English law. He laid down (p. 121) that "without venturing to affirm that there can be no exceptions to the rule, I think it may safely be said that, in the case of onerous contracts reduced to writing, the erroneous belief of one of the contracting parties in regard to the nature of the obligations which he has undertaken, will not be sufficient to give him the right [of rescission] unless such belief has been induced by the representations, fraudulent or not, of the other party to the contract."

The rule extends to avoid the recovery of money paid under a contract in mistake of law, as illustrated by *Re Hatch*, 1919, 1 Ch. 351. In that case an annuity to a wife under a deed securing alimony after judicial separation was paid without deduction of income tax by the husband during his life. His widow survived him, and his executors raised the question whether the income tax should have been deducted. SARGANT, J., held that it ought to have been, but, the overpayments having been made under a mistake of law, were not only irrecoverable by action, but could not be deducted from future instalments of the annuity.

Apart from crime, or the obligations of a contract, there is quite a strong tendency amongst judges to excuse ignorance of the law. Possibly the high-water mark was reached in *Hook* v. *Hook and Brown*, 1917, P. 56, a "poor person" divorce petition by the husband, in which, after decree *nisi*, the King's Proctor had intervened, alleging the petitioner's adultery, which had not been disclosed to the court. The allegation was admitted, and the only plea was that the petitioner was an ignorant man, and did not know his duty to the court. In accepting it, LOW, J., said: "The question is, whether in a case of this kind, in which a petitioner in humble life, and obviously an ignorant man, and one who is least likely to understand and appreciate the subtleties underlying such matters, honestly believes he is not bound to impart information, the court should be influenced by these facts and circumstances. I think that it should. I do not see how the law is to be administered so as to be acceptable to reasonable persons unless allowance is made for the want of knowledge on the part of persons in humble life."

In *R.* v. *Mayor of Tewkesbury*, 1868, L.R. 3 Q.B., some burgesses in a municipal election had voted for the mayor, who was also returning officer, and therefore incapable of election. In a previous decision, *R.* v. *Hawkins*, 1808, 10 East 211, it had been laid down that, if an elector knowingly chooses to give his vote to a disqualified candidate, he merely throws it away, but if electors vote for a disqualified candidate in ignorance, and their votes affect the result, the election is void. The issue was therefore whether the electors who voted for the candidate, knowing that he was also mayor and returning officer, could be held to have knowledge that he was disqualified in point of law as a candidate, and BLACKBURN and LUSH, JJ., were of opinion that such knowledge could not be imputed to them. In his judgment BLACKBURN, J., quoting Lord MANFIELD'S observation that "As to the certainty of law mentioned by counsel, it would be very hard on the profession if everybody knew it; the misfortune is that it is so uncertain that it costs much money to know what it is even in the last resort," observed "It was a necessary ground of the decision in that case that a party may be ignorant of the law—numerous instances might be cited to show there was a doubtful point of law. If there were not, there would be no need of courts of appeal, the existence of which shows that judges may be ignorant of law." And again, LUSH, J., at p. 639: "The maxim is '*ignorantia legis neminem excusat*,' but there is no maxim which says that, for all intents and purposes a person must be taken to know the legal consequences of his acts." It is fair to say, however, that the authority of this case has been questioned in *Drinkwater* v. *Deakin*, 1874, L.R. 9 C.P. 626; and see also *Beresford-Hope* v. *Sandhurst* (*Lady*), 1889, 23 Q.B.D. 79, at p. 85. But the reason given for the doubt was, not that legal knowledge was imputed to everybody, but that ignorance of the law would not validate a vote otherwise void.

Meaning of "Trade Union"

for the purposes of s. 4 of the Trade Disputes Act, 1906.

A JUDGMENT of considerable importance has been delivered by the Court of Appeal on a novel point of trade union law, namely, whether the expression "trade union" in s. 4 of the Trade Disputes Act, 1906, has the same meaning as it has for the purposes of the Trade Union Acts in general: *Hardie and Lane, Ltd.* v. *Chilton and others*, 43 T.L.R., 709.

Section 4 (1) of the Trade Disputes Act, 1906, provides that an action against a trade union, whether of workmen or masters, or against any members or officials thereof on behalf of themselves and all other members of the trade union in respect of any tortious act alleged to have been committed by or on behalf of the trade union, shall not be entertained by any court.

By virtue of this provision, trade unions, as such, have been given complete immunity in respect of tortious acts, since they cannot be sued either *eo nomine* or in a representative action for any tort committed by or on behalf of the union, and it is immaterial whether the tort has been committed in contemplation or in furtherance of a trade dispute: *Vacher's Case*, 1913, A.C., 107.

The liability of the trustees to be sued in actions, within s. 9 of the Trade Union Act, 1871, "touching or concerning property right or claim to property of the trade union" is, however, preserved by sub-s. (2) of s. 4 of the Trade Disputes Act, 1906, though even in such cases the trustees may not be sued where the tortious act has been committed by or on behalf of the union in contemplation or in furtherance of a trade dispute.

The introduction of the words "whether of workmen or masters" in sub-s. (1) of s. 4 of the Trade Disputes Act, 1906, has led to the doubt whether the privileges granted by that sub-section can only be enjoyed by certain classes of unions, i.e., trade unions consisting of workmen or of masters.

In the definition of "trade union" which is to be found in s. 23 of the Trade Union Act, 1871, as amended by s. 16 of the Trade Union Act, 1876, and by ss. 1 and 2 of the Trade Union Act, 1913, it will be observed that the Acts contemplate three classes of associations. The definition of "trade union" to be found in the above Acts may be thus stated in an analytical form. "The expression 'trade union' means any combination, whether temporary or permanent, the principal objects of which are under its constitution statutory objects, viz.: (*a*) the regulation of the relations between workmen and masters, or between workmen and workmen, or between masters and masters; or (*b*) the imposing of restrictive conditions on the conduct of any trade or business; or (*c*) the provision of benefits to members."

In the above provisions no reference is expressly made to a trade union being an association "of workmen or of masters,"

and there may be associations which are neither associations of workmen nor associations of masters, which nevertheless satisfy the definition of "trade union" for the purposes of the Trade Union Acts.

Thus, in *Hardie & Lane, Ltd.* v. *Chilton and others*, where it was sought to sue the Motor Trade Association in a representative action, the association in question, which purported to carry on business for the purpose of encouraging and protecting the motor industry in the United Kingdom and throughout the world, and to watch over and protect the interests of manufacturers and other persons in the motor trade, was not an association either of workmen or of employers, but it was an association formed for the purpose of imposing restrictive conditions on the conduct of the motor trade or business, and as such it fell within the second category of associations which were to be regarded as trade unions for the purposes of the Trade Union Acts in general.

Inasmuch, however, as the association was not an association of masters or of servants, the point was taken that the association was not a trade union for the purposes of s. 4 (1) of the Trade Disputes Act, 1906, and that accordingly it was not entitled to the immunities conferred by that sub-section.

The Court of Appeal, however, did not accept this contention, and held that, notwithstanding the inclusion of the words "whether of workmen or of masters" in sub-s. (1) of s. 4 of the Trade Disputes Act, 1906, a trade union, even though it was not such an association, was nevertheless entitled to the protection of s. 4 (1), if it satisfied the conditions necessary to constitute it a "trade union" under ss. 1 and 2 of the Trade Union Act, 1913, and that inasmuch as the Motor Trade Association satisfied the necessary requisite by being an association the principal object of which was the imposition of restrictive conditions on a trade or business, it was a trade union, and as such immune from the liability to be sued in tort, by virtue of s. 4 (1) of the Trade Disputes Act, 1906.

The Court of Appeal appear to have based their judgment to some extent on the judgment delivered by the House of Lords in *Vacher's Case*, where the learned law lords expressed the view that a restricted meaning was not to be given to s. 4 (1). It will be noted that the attempt was made in *Vacher's Case*, but without success, to limit the operation of sub-s. (1) to tortious acts, committed in contemplation or furtherance of a trade dispute, stress being laid on the fact that the words "in contemplation or furtherance of a trade dispute" was to be found in the first three sections of the Act and also in sub-s. (2) of s. 4 itself.

The decision of the Court of Appeal in *Hardie & Lane, Ltd.* v. *Chilton and others* should therefore be carefully noted, since it re-asserts the principle in *Vacher's Case* and removes yet another possible limitation to the operation of s. 4 (1) of the Trade Disputes Act, 1906.

A Conveyancer's Diary.

Settled Land or Land held upon the Statutory Trusts: L.P.A., 1925, 1st Sched., Pt. IV, para. 4.

Attention may be drawn to two cases recently decided on the effect of the new para. 4 introduced into the L.P.A., 1925, 1st Sched., Pt. IV, by the L.P. (Amend.) A., 1926, Sched.

The paragraph reads as follows:—

> "Where, immediately before the commencement of this Act, there are two or more tenants for life of full age entitled under the same settlement in undivided shares, and after the cesser of all their interests in the income of the settled land, the entirety of the land is limited so as to devolve together (not in undivided shares), their interests shall, but without prejudice to any beneficial interest, be converted into a joint tenancy, and the joint tenants and survivor of them shall, until the said cesser occurs, constitute the tenant for life for the purposes of the Settled Land Act, 1925, and this Act."

In *Re Colyer*, 1927, 1 Ch. 677, Tomlin, J., was called upon to decide whether or not the above paragraph applied in the following circumstances: A testator gave his residuary real estate to trustees, upon trusts under which the property was immediately before 1st January, 1926, held upon trust for two persons during their lives in undivided shares, and subject thereto upon such trusts for the benefit of the testator's sons and grandsons as he should by deed or will appoint, and in default of and subject to such appointment, in trust for the testator's heir.

The learned judge concluded that "when land is limited to a single person subject to a special power of appointment, it cannot be said that 'the entirety of the land is limited so as to devolve together (not in undivided shares)' . . . Those words are not satisfied, unless the life interests are followed by a vested indefeasible limitation not in undivided shares." But it may be observed that by reason of the other provisions of the statute (L.P.A., 1925, s. 35 (2)) land cannot be appointed ("convey" includes "appoint") to any persons in undivided shares. So that, after 1925, and under the limitations of the will, the land *would have to* devolve in its entirety, not in undivided shares.

In *Re Higgs and May's Contract*, 1927, W.N. 227, the meaning of the new para. 4, *supra*, was further considered. A testator had devised his property to trustees, upon trust for his children for life, with the provision that on the death of any child his or her children should be entitled to his or her share. He then directed by his will that, when and so soon as all his children should be dead except two, his trustees should sell and convert all his trust estate, and divide the proceeds equally between his two surviving children and the child or children of deceased sons and daughters, such last-mentioned children, if more than one, to take equally between them one equal share of the proceeds of sale. It seems that immediately before the commencement of the L.P.A., 1925, the land was held in trust for ten children, seven grandchildren, and the legal personal representative of a deceased grandchild of the testator.

The point immediately at issue was whether the land was vested in the eighteen persons so entitled thereto in undivided shares as tenants for life under the new para. 4, or whether it was vested in the trustees of the testator's will under L.P.A., 1925, 1st Sched., Pt. IV, para. 1 (3).

Eve, J., decided that the new para. 4 did not apply on the ground, it seems, that "land settled upon trust for sale and division of the proceeds could not by any stress of imagination be described with accuracy as land so limited as to devolve or descend as an undivided whole." Hence para. 1 (3) applied, and the trustees of the testator's will could make a good title.

All must agree that it is in most cases much more convenient and less expensive to have title made by trustees for sale, the number of which cannot now (with one or two exceptions) exceed four, than by an unlimited number and, as often happens, under limitations similar to that in *Re Higgs and May*, an unknown body of tenants for life. From that point of view the decision of Eve, J., cannot but be welcome.

But it seems open to very grave doubt whether the principle reported to have been laid down in such an emphatic manner by the learned judge as the basis of his decision can be accepted as a sound one.

The essence of a disposition to trustees upon trust for sale is that the land in its entirety is limited to the trustees. In considering whether or not the *entirety of the land* is limited so as to devolve together, it is beside the point to inquire who is entitled to the proceeds of sale. As Russell, J., when considering the meaning of "land" in S.L.A., 1925, s. 20 (1) (viii), aptly observed in *Re Earl of Stamford and Warrington*, 71 Sol. J., p. 620, "You cannot satisfy the word 'land' . . . by producing and adding together two undivided moieties of land when undivided shares of land are in terms excluded from the definition of land."

A distinction must obviously be drawn between the limitation of the land itself and the disposition of the proceeds of sale.

Landlord and Tenant Notebook.

Costs of Preparation of Lease.

As the question of the payment of the costs of preparing and executing a lease frequently gives rise to disputes between the lessor and the lessee, it may be as well to examine the rules determining the liability of the lessor and the lessee in this respect.

It is, of course, open to the parties to agree between themselves as to whether the one or the other is to bear this burden, whether wholly or in part, and, in the latter event, in what proportions; but in the absence of agreement there are certain general principles of law applied to determine the question of liability.

Grisell v. *Robinson*, 1836, 3 Bing. N.C. 10, may be regarded as the leading case. It was there held that the lessee was liable for the costs of the preparation of a lease by the lessor's attorney. Tindal, C.J., observing in his judgment, *ibid*, at p. 15, that the evidence showed that "it was the custom for the landlord's attorney to draw the lease, and that it was paid for by the lessee." Park, J. in the same case, *ibid*, at p. 16, based this liability of the lessee on the ground that the lessee must be regarded as having impliedly assented to the payment of the attorney by the lessor, the lessee accordingly being liable to an action for "money paid to his use."

It is difficult, however, to determine what is the extent of the lessee's liability. From the *dicta* of Chitty, J., in *In re Negus*, 1895, 1 Ch. at p. 82, it appears that the lessee is liable for the "preparing, settling and completing" of the lease. While the expression may serve as a useful guide, it is nevertheless an inadequate test for determining whether the cost of any particular item would be borne by the lessor, or by the lessee.

Counsel's Fees, Surveyor's Charges, etc.

In the first place, it is not quite clear whether the lessee is liable for counsel's fees, as part of the cost of the lease. In *Lock* v. *Furze*, 1865, 19 C.B., N.S., 96, Erle, C.J., held that counsel's and surveyor's fees were never allowed as part of the costs of a lease. In that case, however, the question as to the allowance of counsel's and surveyor's fees only arose incidentally, in computing the measure of damage to which the lessee was entitled as against his lessor and his representatives, for breach of a covenant for quiet enjoyment; the lessor in that case, who was a tenant for life, with power to grant leases *in possession*, having exceeded his power by purporting to grant a lease *in reversion*.

The authority of *Lock* v. *Furze*, in so far as it deals with the question of the liability to pay for counsel's fees, is much shaken, however, by *In re Gray*, 1901, 1 Ch. 239. In his judgment in the latter case, Cozens Hardy, J., after pointing out that according to the reporter's note of *Lock* v. *Furze*, the court intimated a doubt as to whether the lessee was liable for these items, expressly disapproved of the *dictum* of Erle, C.J., in that case, adding that the *dictum* was not in accordance with existing usage, so far as counsel's fees are concerned. "On principle," said the learned judge, *ibid*, at p. 144, "the lessee must be held to have impliedly contracted to indemnify the lessor against expenses properly incurred in preparing the lease. In a case where the aid of a skilful conveyancer is reasonably required in settling a draft lease, I think the lessee ought to be liable to pay his fees."

It is submitted therefore that in a proper case a lessee will be liable for counsel's fees, though he will not be so liable where the aid of counsel in drafting or settling the lease was not at all necessary. On the same principle it seems that the lessee may be held liable for a surveyor's fees and charges if these were reasonably incurred. But the lessee cannot be made liable for such charges where they were incurred by the lessor with the object of entering into the lease and prior thereto. Thus *In re Gray*, 1901, 1 Ch. 239,

Charges antecedent to Instructions for Lease.

where the lessors were attempting to make the lessee liable *inter alia* for the fees of a mining expert, who had been engaged by the lessor for the purpose of enabling him to formulate the terms to be inserted in a demise of certain mines it was held that the lessee was not liable in respect of these items. Cozens Hardy, J., being of opinion, *ibid*, at p. 244, that the lessor could not recover from the lessee any sums paid by him to his solicitors *in respect of anything antecedent to instructions for the lease*, this being in accordance with the law as between mortgagor and mortgagee, that in the absence of a special bargain the costs of the valuation of the property with the view of making an advance thereon would not be allowed in taking the mortgage accounts. *Field* v. *Hopkins*, 1890, 44 Ch.D. 524.

In the absence of any agreement the lessee can only be made responsible for one set of costs. Thus in *In re Fletcher and Dyson*, 1903, 2 Ch. 688, where a vicar with the concurrence of the patron of the benefice and the Ecclesiastical Commissioners granted a lease of certain quarries on part of the glebe, and the vicar, the patron and the Commissioners were each represented by separate solicitors, it was held that the lessee was only liable for one set of costs. On the other hand circumstances might exist which would justify the inference that there was an implied contract by the lessee to pay more than one set of costs. Thus in his judgment in *Re Fletcher and Dyson*, 1903, 2 Ch. at p. 692, Swinfen Eady, J., said: "I am unable to assume in the absence of any evidence on the subject, that there is any general custom binding a lessee to pay several sets of costs where there are several lessors represented by different solicitors. In all such cases the question must be considered whether there is any contract by the lessee to pay either express or to be implied from the nature of the case and the circumstances under which the arrangement for the new lease was arrived at."

Costs of Counterpart.

In the absence of agreement, the costs of a counterpart or duplicate agreement are to be borne by the lessor alone. This at any rate is the effect of *In re Negus*, *supra*. The Law Society are of the opinion, however, that according to the custom of London which applies throughout England, where there is no local custom to the contrary, a lessee is liable to pay for both lease and counterpart. It is difficult to see how in the present state of the authorities this opinion can prevail against the direct decision in *In re Negus*, since in that case the premises concerned were situated in London. As doubts are cast on the correctness of *In re Negus*, it is to be regretted that the point has not yet been taken before an apppellate court. It should be noted, however, that the correctness of the decision in *In re Negus* largely turns on a question of usage and custom.

Lessee not liable to Lessor's Solicitor.

It may be observed that even in cases where the lessee is liable for the costs of the lease, he is liable to the lessor and not to the lessor's solicitor. The lessee however can render himself directly liable to the lessor's solicitor for the costs of the lease, but very slight evidence will be necessary in order to show the inference that the lessor's solicitor has been retained in fact by the lessee. Thus in *Smith* v. *Clegg*, 29 L.J. Ex. 300, Watson, B., said, at p. 301: "In ordinary cases, notwithstanding that the lessor's attorney prepares the lease, the lessee is to pay for it. The attorney unless something takes place between him and the lessee, cannot sue the lessee for the costs of preparing the lease and the lessee is liable only to the lessor. But very slight evidence will suffice to make the lessee liable to the attorney, as if it is understood between

them that the lessee shall pay the costs directly to him, or if there are any instructions given by the lessee to him which tend to show such an understanding between them."

Solicitors' Charges where Printed Form Followed.

The charges which a solicitor is entitled to make are fixed by the Solicitors' Remuneration Act 1881, and the various rules and orders that have been since made, but there is one point of extreme importance to which attention should be given.

In the case of companies, whether private or public, owning a vast amount of property, it is not unusual to find that printed forms made for its own use are adopted by the company when granting a lease. In such a case it would be as well to bear in mind the ruling in *Welby* v. *Still*, 1895, 1 Ch. 525. In that case it was held that leases following a general printed form and requiring in each case only to be filled in with the names of the parties, the parcels, a plan, the rent and so forth, were not subject to the scale charge and that the solicitor was, in such a case, only entitled to a reasonable sum for the same. Thus Kekewich, J., said in *Welby* v. *Still*, *ibid*, at p. 526: "I should be disposed to hold that when there has been settled once for all a form of lease intended to be followed and the mind of the solicitor is directed in the first instance to settling that form (for which therefore he ought to be paid), and where the subsequent settlement of a lease in that form consisting partly of printed and partly of written matter, is a mere matter of detail and not requiring the exercise of knowledge, skill or industry, then the solicitor is not entitled to the scale charge."

Reviews.

Strahan's Concise Introduction to Conveyancing. Third Edition. By L. B. Tillard. With an Essay on the Simplification of the Law of Real Property by Sir Arthur Underhill. London: Butterworth & Co. 1927. 8vo, pp. xxiii and 435. 21s. net.

Complete responsibility for this edition has been undertaken by Mr. Tillard. The plan of the old edition has been closely followed, and the result is an extremely readable and clear statement of the position under the old and the new law. The book is brought up to date, and the explanation of the new conveyancing is enhanced by a number of concrete illustrations. It is primarily designed for the use of students, and the editor has not spared himself in explaining in clear terms the working of the new system. The book will doubtless run into many editions, and may we, therefore, suggest that in future, a more comprehensive account be given of contract for sale, and investigation of title? Twenty-six pages are inadequate for these two topics. Further, that the powers of a tenant for life be fully treated in the chapters dealing with settlements. The rule as to collateral advantages, at p. 296, appears to be an under-statement, falling far short of *Kreglinger's Case*, which is cited for it. The book covers the whole field of conveyancing, and the new edition will be welcomed by every student.

The Law Relating to Contracts of Local Authorities and Protection of Public Authorities. By William Cassell Maude. Fourth Edition. 1926. Law & Local Government Publications Lim., 27 to 29, Furnival-street, E.C.4. xix and 497 pp. 35s. net.

Mr. Maude has again been responsible for a new—the fourth—edition of this unique work. A new chapter has been added on the Protection of Public Authorities, in which the Public Authorities Protection Act and the cases decided thereunder are carefully examined. The first chapter deals very fully with the powers of corporations to contract, and the doctrine of *ultra vires*. Other chapters give a lucid account of the law relating to contracts under seal by corporations and the exceptions thereto, contracts relating to various types of local authorities under varying statutory powers, building contracts, assignments, and the law affecting members and officers interested in contracts. Part II contains an extremely useful collection of forms and precedents of agreements and contracts relating to the various activities of local authorities. The book has been thoroughly brought up to date, and the leading cases are dealt with in detail. The work is indispensable to officers of local authorities, and can be safely recommended to the practitioner in this branch of the law.

The Devolution of Settled Land (with concise precedents), by A.H. Cosway. London: Effingham Wilson. 1927. ix and 76 pp., and Appendix (40 pp.). 4s. net.

The object of this handbook, as expressed in its preface, is to meet "the need for a guide which, whilst being brief and inexpensive, may yet cover those points which are continuously arising," with respect to settled land. It discourses pleasantly, not only on the devolution of settled land, as the title would imply, but on many points of practice in dealing with settled land. Certain observations on undivided shares, and land subject to a trust for sale are included; and the appendix contains a score of concise precedents. The work is produced in bold and clear-cut type; and the author appropriately enunciates bold opinions. He advocates renunciation in all cases by special personal representatives, in order that the general personal representatives may obtain a full grant; and dissents from the accepted view of the position (under s. 30 (3) of the Settled Land Act), of a settlor's personal representatives after giving their assent. He makes a suggestion as to the mode of termination of a settlement so as to create an immediate trust for sale. While the work cannot be taken as a "guide" without reference to larger works, or be said to "cover" the points, it certainly serves to stimulate discussion.

Books Received.

The Criminal Justice Acts. Being the Criminal Justice Administration Act, 1914, and the Criminal Justice Acts, 1925 and 1926, with portions of other Acts concerned with the same matters. With Explanatory Notes. Albert Lieck and A. C. L. Morrison. Second Edition. Foreword to the first Edition by Sir A. H. Bodkin, K.C.B. (Director of Public Prosecutions). 1927. pp. xxxix and 344 (with Index). Stevens & Sons, Ltd., Chancery-lane. 12s. 6d. net.

The German Law on Private Insurance. A Translation of the Act relating to the control of Private Insurance Business of 12th May, 1901, the Act relating to Contracts of Insurance of 30th May, 1908, the Marine Insurance Act (Commercial Code, Book IV, Part X), the General Rules of Marine Insurance, 1919. Dr. Alfred Sieveking, Lawyer in Hamburg. pp. vii and 276 (with Index). Stevens & Sons, Ltd., Chancery-lane. 12s. 6d. net.

Management and Administration of Estates in Lunacy. A Practical Handbook for the use of Practitioners and Receivers, being the Second Edition of "The Practice of the Office of the Masters in Lunacy." Second Edition, 1927. Gerald E. Mills, O.B.E. and A. H. Ronald W. Payser, B.A. (of the Office of the Masters in Lunacy.) 60 pp. Butterworth & Co., 7s. 6d. net.

The Law, The Advocate and The Judge. A Reading delivered before the Honourable Society of The Middle Temple, 19th May, 1927. By The Hon. Mr. Justice McCardie. (Reprinted from The Solicitor's Journal. 1927.) Foolscap Quarto. 35 pp. With Frontispiece: "The Hall of The Middle Temple." The Solicitors' Law Stationery Society, Limited, 104-7 Fetter-lane, E.C.4, Liverpool and Glasgow. 2s. net, postage 3d.

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers are invited and will be answered by some of the most eminent authorities of the day. All questions should be addressed to—The Assistant Editor, "The Solicitors' Journal," 94-97, Fetter Lane, E.C.4, be typewritten on one side of paper only, and be in triplicate. Each copy to contain the name and address of the subscriber. To meet the convenience of Subscribers, in matters requiring urgent attention, answers will be forwarded by post if a stamped addressed envelope is enclosed.

SETTLED LAND—DISCRETIONARY TRUST—MORTGAGE FOR IMPROVEMENTS—TITLE.

875. *Q.* A testator who died in 1918, by his will gave certain real estate to his trustees, upon trust, during the life of his son to pay or apply the net rents and income arising therefrom to or for the benefit, maintenance, support, education, advancement, or otherwise for the benefit of his said son and his wife and child or children for the time being, or such one or more exclusively of the others or other of them, and in such shares and proportions, either equal or unequal, and either wholly to one or wholly to the others or either of them, and in such way, manner and form in all respects as they, his trustees, might in their absolute and uncontrolled and irresponsible discretion from time to time think proper. And from and after the decease of his said son, upon certain trusts in his said will mentioned. In the said will is contained powers to raise by mortgage, charge or incumbrance of the said real estate, any sum that may be necessary for repairs, renovations and improvements of the said real estate. No vesting deed or assent has been executed or signed. It is desired to raise money for certain improvements.

(1) Bearing in mind the discretionary nature of the trust quoted above, did the legal estate in the property in January, 1926, vest in the testator's son, and is he as tenant for life the proper person now to mortgage for the purpose of raising the necessary money?

(2) Or does the legal estate still remain in the trustees of the will, and can they exercise the powers in the will or the statutory powers for raising money by way of mortgage for improvements, etc?

(3) If the legal estate in the property vested in the son, as tenant for life, in January, 1926, must a vesting assent be now executed, and must he raise the necessary money for the purpose required? If a vesting assent is necessary and is signed, will it entitle the son to receive the whole of the rents without any reference to the discretionary trust contained in the will?

(4) If the legal estate passed to the son, then is the proper procedure a vesting assent by the personal representatives or a vesting deed by the trustees, in view of the fact that mortgages created by the testator are still in existence?

A. (1) No. The questioner is referred to the answer to *Q.* 467, p. 974, vol. 70, for an argument that *re Atkinson*, 1886, 31 C.D. 577, would be treated as authority for the new legislation, and in *re Craven*, 1926, Ch. 985, it appears to have been assumed, without argument, that a person with a protected life interest is not a tenant for life.

(2) The legal estate is vested in the trustees for the purposes of the Act, see the S.L.A., 1925, s. 23 (1) (*b*).

(3) and (4) For the reasons stated in the answer to *Q.* 467, *supra*, the trustees for the purposes of the Act (found from s. 30, and not necessarily the will trustees), must execute a vesting deed in their own favour. Since there is an express power to raise money by mortgage for improvements, *re Egerton's S.E.*, 1926, Ch. 574, is in point.

MORTGAGE OF LEASEHOLDS BY SUB-DEMISE—SALE UNDER POWER OR FORECLOSURE—NOMINAL REVERSION—TITLE.

876. *Q.* We submit the following statement of "Points" arising out of the sale of leasehold property for the unexpired residue of the term of ninety-nine years granted by the lease thereof at, under and subject to the rents, covenants and conditions of the said lease:—

Case (*a*).—Original lessee, upwards of thirty years ago, mortgaged the property by demise for the residue of the term granted by the lease except the last day. The mortgage deed contained no trust or provision as to the head term (or "nominal reversion," as it is usually called), which was wholly ignored by the deed. A few years later the mortgagee appointed a receiver of the property under the Conveyancing Act, and after the receivership had existed for upwards of fifteen years the mortgagee, as mortgagee, about seven years ago (year 1919) sold and assigned the property to a purchaser for the residue of the mortgage term, but this purchaser's executrix has now sold it under the original lease for the residue of the ninety-nine years' term thereby granted at, under and subject to the rent, covenants and conditions of the said lease.

Case (*b*) is similar to *Case* (*a*) except as follows: Original lessee mortgaged upwards of twenty years ago to mortgagees who advanced on joint account. Mortgage deed contained a declaration that after any sale of the property under the statutory power of sale the mortgagor or person in whom said premises so sold should for the time being be vested for the residue of the term granted by the said lease should stand possessed thereof in trust for the purchaser and to be assigned and disposed of as he might direct. About twenty years ago the mortgagees instituted foreclosure proceedings in which they obtained an absolute foreclosure order against the mortgagor and his bank which held a second mortgage. About fourteen years later (year 1920) the surviving mortgagee, as trustee for sale within the meaning of s. 9 (1) of the Conveyancing Act, 1911, sold and assigned the property to a purchaser for the residue of the mortgage term, and he, as beneficial owner, very soon afterwards (also in 1920) sold and assigned it to the testator of the present vendor for the residue of the same term, but, as in Case (*a*), this vendor has sold it under the original lease.

In each case the vendor's solicitor asserts that the contract of sale under the original lease is correct, because the L.P.A., 1925, got in and vested in the testator (who was living on and after the 1st January, 1926) the head term (or "nominal reversion," as the vendor's solicitor calls it). The purchaser's solicitors contend that this assertion is wrong on the grounds that, as to leasehold property, the Act did not get in and vest the head term in the owner of the sub-term unless the owner of the sub-term could show that under some express trust or provision he was entitled to require the head term to be assigned to him or disposed of by his direction, and that in case (*a*) there was nothing whatever giving the mortgagee or any person claiming through or under the mortgagee any such right; and in case (*b*) the trust was limited to the purchaser under the mortgagee's statutory power of sale, and there was no such purchaser because this power of sale was never exercised; and therefore in each case the vendor can sell and assign the sub-term only and not the head term.

The question is whether the assertion of the vendor's solicitor or the contention of the purchaser's solicitors is correct.

A. Case (*a*).—This case is virtually covered by the answers to *Q.* 730 and *Q.* 736, pp. 265 and 289, *ante*, and the authorities cited. Assuming the sale was made under the Conv. Act, 1881,

the mortgagee had no power to dispose of the nominal reversion in the circumstances, and his purchaser consequently had no title to it. A willing purchaser from him, however, need have no fear in completing: see argument p. 265.

Case (*b*).—Here there was foreclosure, and, if the order absolute also vested the nominal reversion in the mortgagee, he could have conveyed it to a purchaser, but apparently he did not do so, and therefore again his purchaser has no title.

In both cases the vendor's solicitors should be reminded that s. 89 (1) of the L.P.A., 1925, applies only to sales after the Act has come into force, and the 1st Sched., Pt. II, para. 3, only applies in favour of persons with an equitable title.

SETTLED LAND—RECENT DEATH OF TENANT FOR LIFE—SALE—*Q.* 767.

877. *Q.* With reference to your reply to the above question, will you please state whether a *sole* special personal representative can sell? If not, how can an additional special personal representative be appointed, and by whom? We are acting for a vendor in a case exactly similar to the one dealt with in the answer to the above *Q.* 767. The purchaser's solicitors state that, in their opinion, "Special personal representatives have no power of sale and that their powers are limited to making vesting instruments to persons entitled in equity under the settlement in order that these persons may either, if limited owners, make title under the S.L.A., or if absolutely entitled, or they suggest entitled as trustees for sale, make title in the ordinary way." We do not agree with this opinion and submit on the death of the tenant for life the land is no longer settled land or the sale is under s. 24 of the A.E.A., 1925. Please give your opinion as to this.

A. Adherence must be expressed to the view taken in the answer to *Q.* 767, *ante*. The statutory trust referred to in the L.P.A., 1925, 1st Sched., Pt. IV, para. 2, is the trust for sale contained in s. 35, and is expressly conferred on the special representatives, unless and until they deal with the land by assent or conveyance. And, it being conferred on them as special representatives, one only can exercise powers as such and give receipt: see s. 27 (2), as amended by the L.P. (Amend.) A., 1926, Sched.

Alternatively, special representatives are accountable for estate duty, L.P.A., 1925, s. 16 (1) and (3), and persons accountable for estate duty may sell: F.A., 1894, s. 9 (5); T.A., 1925, s. 16 (1). Moreover, the purchaser is not concerned to see that the money in fact is wanted for death duties: T.A., 1925, s. 17.

On either footing above, however, the special representatives should, to protect themselves *vis-a-vis* their beneficiaries, but not as a matter of title, obtain the latter's written direction to sell.

If this answer is correct, the question of the appointment of an additional executor does not arise, but the dictum of Cotton, L.J., in *Re Willey*, 1890, W.N. 1, has generally been regarded as sound, and is not over-ruled by the new legislation.

SETTLED LAND—DEATH OF TENANT FOR LIFE—SALE.

878. *Q.* A executed a "home-made" will, dated 23rd January, 1912, whereby he appointed his wife and his three sons (his heir-at-law being one) to be his executors, and, after directing that all his just debts, funeral and testamentary expenses should be paid as soon as conveniently might be after his decease, he gave and bequeathed unto his wife two houses and all his worldly belongings for her life, at her decease (the wife's) the property to be sold and the proceeds to be divided as therein mentioned. The testator died in August, 1917, and the will was duly proved in September, 1917, by the executors named in the will. The widow died 9th May, 1927. The executors wish to sell the two houses. There are no debts outstanding.

(1) Who has the power to sell and who will be the conveying parties?

(2) Are any vesting deeds necessary?

(3) Can the heir-at-law and the executors convey the property?

(4) Generally, what should be done?

A. Assuming that A's estate had been completely administered before 1926, the legal estate in the two houses vested on 1st January, 1926, in the widow as tenant for life: L.P.A., 1925, 1st Sched., Pt. II, paras. 3, 5, 6 (*c*). Representation to the widow's estate should be obtained by the surviving executors of A's will (they being the S.L.A. trustees: S.L.A., 1925, s. 30 (1)), as special personal representatives under Ad. of E.A., 1925, s. 22 (if the widow left a will), or J.A., 1925, s. 162 (if she died intestate). When this is done the special representatives will assent in writing to the vesting of the two houses in themselves as trustees for sale under the terms of the will.

VENDOR AND PURCHASER—DOCUMENTS WITH TRUSTEES OR MORTGAGEES—L.P.A., 1925, s. 45 (4).

879. *Q.* The L.P.A., 1925, s. 45 (4), provides in effect, that the expenses of production of documents of title not in the possession of the vendor or his mortgagee or trustee, shall be borne by the purchaser, but there appears to be no corresponding provision that the expenses of production of documents of title in the possession of the vendor's mortgagee shall be borne by the vendor. A note at the bottom of p. 313, vol. I, of "Prideaux's Precedents of Conveyancing," 22nd ed., is as follows:—"Subject to any stipulation to the contrary the cost of producing documents in the possession of a mortgagee or trustee for the vendor will be borne by the vendor (L.P.A., 1925, s. 45 (4) (10))." The two sub-sections of the Act quoted in this note do not appear to us to bear out its contents. The effect of the Act appears to us to be simply to state that expenses of production of certain documents (but not including deeds in the possession of a vendor's mortgagee) shall be borne by the purchaser, but it does not state that the expenses of production of deeds in the possession of the vendor's mortgagee shall be borne by the vendor. We shall be glad to know what is your opinion with regard to this.

A. The view of the operation of the L.P.A., 1925, s. 45 (4), expressed in the note to "Prideaux," quoted above, is respectfully here adopted, and in fact, was the basis of the answer to *Q.* 116, p. 321, vol. 70. This interpretation follows the "*inclusio unius*" rule, and is also adopted "Wolstenholme," pp. 208-9, "Enc. F. & P." vol. XIV, p. 105, and Devonshire, p. 139.

UNDIVIDED SHARES—MORTGAGE ON ENTIRETY—PAYMENT OFF BY SOME TENANTS IN COMMON BEFORE 1926—TITLE.

880. *Q.* A, B and C purchased for £1,000 a freehold farm in 1916 as tenants in common, and the day after they mortgaged the property for £500. In 1917 A died intestate, leaving his father, D, his heir-at-law, who was then confined in an asylum. In January, 1923, B and C paid off the mortgage out of their own moneys but did not take a reconveyance of it. In 1927, D (the father and heir-at-law of A) died, and his will was proved by E, the surviving executor. Afterwards E, as executor of D, took out administration to the estate of A. C has now agreed to take over the farm and to pay out the representative of A and also B their respective shares, and it is desired to vest the property in C solely free from the mortgage. We shall be glad if you will kindly let us know the form of conveyance and any other assurance that may be necessary to vest the property in C.

A. When B and C redeemed the mortgage, they were entitled to an aliquot charge on D's share, notwithstanding that he did not or could not know of the transaction: see *Butler* v. *Rice*, 1910, 2 Ch. 277. That being so, the opinion is here given that D's share was not free from incumbrances on 31st December, 1925, and the L.P.A., 1925, 1st Sched., Pt. IV, para. 1 (4), consequently applied to vest the property in the Public Trustee. If E and B now assign their equitable interests to C, he will be sole beneficial owner and can appoint himself sole trustee to oust the Public Trustee under para. 1 (4) (iii). The property will then be vested in him as trustee (see L.P. (Amend.) A., 1926, Sched.) and beneficially, a situation dealt with in the answer to *Q.* 244, p. 541, vol. 70.

Correspondence.

"Europe in the 19th Century."

Sir,—Reflections upon the legal profession by reputable authors are not now common, and when they are made in a sweeping manner they call for remark and protest.

In "Europe in the Nineteenth Century 1789–1914," by Messrs. A. J. Grant and Harold Temperley, at page 198, one reads: "It is clear that Louis Philippe thought that he had secured the reversion of the French throne to his son, and he had done it by a trick of which an attorney might be ashamed." This, in a book of great interest and a mine of research and learning is a jarring passage, and should I think be altered or expunged so far as it refers to "attorneys," if and when a new edition is called for.

101, Newbold Road, Chesterfield, 19th July. CHAS. PROCTOR.

[We entirely agree with Mr. Proctor's suggestion—ED., *Sol. J.*]

Excessive Fees: Local Land Charges.

Sir,—I was very pleased to see a letter in your issue of the 16th inst. on the excessive fees charged in respect of local land charges.

I was recently acting for the purchase of eleven cottages in a row, all passing under one description in the parcels of a single conveyance for £1,000, and the fee demanded was £2 15s.

On the same principle, it seems to me, a fee of five shillings might be charged for each separate close of land passing under the conveyance of a farm.

Bath, 22nd July. W. R. LEWIS.

Legal Confiscation of Property: The Housing Act, 1925.

Sir,—Please allow me to thank you for your note to my letter on this subject in your issue of the 23rd, and to make the following further comment.

Few will deny that it appears possible to contend that a sanitary house is not insanitary because surrounded by insanitary properties; it is hard indeed to imagine that any legal tribunal would fail to accept that argument. But unfortunately, as the legislation stands, there is no opportunity of bringing this contention before a legal tribunal. At the earliest moment at which it is possible to bring the matter at all before the High Court, this question of whether the house is sanitary or not within the meaning of the Act has been decided by the Ministry of Health, whose decision on this point is binding on the Court.

ANOTHER LONDON SOLICITOR.

London, E.C.2, 25th July.

THE BIRTHS AND DEATHS REGISTRATION ACT, 1926.

The Ministry of Health has addressed a letter to local authorities carrying out maternity and child welfare schemes and administering the Midwives Acts reminding them that the Births and Deaths Registration Act, 1926, came into force on 1st July. The Act requires the registration of still-births by the Registrars of Births and Deaths.

The attention of the Legal Profession is called to the fact that the PHŒNIX ASSURANCE COMPANY Ltd., Phœnix House, King William Street, London, E.C.4 (transacting ALL CLASSES OF INSURANCE BUSINESS), invites proposals for Fidelity Guarantee and Court Bonds, Loans on Reversions and Life Interests. Branch Offices at Byron House, 7, St. James's Street, S.W.1; 187, Fleet Street, E.C.4; 20-22, Lincoln's Inn Fields, W.C.2; and throughout the country.

High Court—Chancery Division.

In re **Earl of Stamford and Warrington: Payne** *v.* **Grey and others.** Russell, J. 31st May, and 1st and 2nd June.

SETTLED LAND—"UNDIVIDED SHARES VESTED IN POSSESSION"—"TENANT FOR LIFE"—PERSONS HAVING THE POWERS OF A "TENANT FOR LIFE"—"PERSON ENTITLED TO THE INCOME OF THE LAND"—MEANING OF—LAW OF PROPERTY ACT, 1925, 15 Geo. 5, c. 20, s. 205 (1) (xxvi); Sched. I, Pt. IV, para. 1; Sched. I, Pt. II, paras. 5, 6 (*c*)—SETTLED LAND ACT, 1925, 15 Geo. 5, c. 18, s. 20 (1) (viii).

Paragraph 1 *of Pt.* IV *of Sched.* 1 *to the Law of Property Act,* 1925, *refers to a condition of affairs where two elements are present, the absence of any antecedent freehold estate and present immediate beneficial enjoyment by possession, physical or notional. You cannot satisfy the word "land" in s.* 20 (1) (viii) *of the Settled Land Act,* 1925, *by producing and adding together two undivided moieties of land where undivided shares in land are in terms excluded from the definition of land in the Act.*

Originating Summons.

This was an originating summons asking, *inter alia*, whether the fee simple of the entirety of the Lancashire estate of the Earl of Stamford and Warrington was now vested in the applicants, who were the trustees of the will, as the statutory owners by virtue of paras. 5 and 6 (*c*) of Pt. II of the first schedule to the Law of Property Act, 1925, and s. 23 (1) (*b*) of the Settled Land Act, 1925, or was vested in them on the statutory trusts under para. 1 (3) of Pt. IV of the first schedule aforesaid, or how otherwise the same was vested, and in either case whether the power of sale and exchange and other powers given to them by the will remain exercisable by them. The facts were as follows: Under the will of the seventh Earl of Stamford and Warrington his Lancashire estate on 31st December, 1925, stood limited as follows:—The entirety was in the trustees for a term of 1,000 years, and in the meantime and subject thereto Mrs. Grey was entitled to one undivided moiety of the estate for life with remainder to Mrs. Hooge for life, with remainder to Mrs. Bateson for life, with remainder to her son as tenant in tail with remainders over. Mrs. Grey died on 31st October, 1926. Sir John Grey was entitled to the other undivided moiety for his life with remainder to his daughter, Eileen, as tenant in tail with remainders over. Sir John Grey had been tenant in tail under the will, but he disentailed in 1914, and resettled the life estate, the remainder over arising under that resettlement. During the existence of the term of 1,000 years the rents and profits of each moiety of the estate went, not to the tenants for life, but to the trustees of the term which was still in force, and the life estates were legal limitations.

RUSSELL, J., after stating the facts, said para. 1 of Pt. IV must be read as including and referring to possession by the receipt of rents and profits as opposed to physical possession, but it also refers to possession as opposed to in reversion and in remainder. In my judgment para. 1 refers to a condition of affairs where two elements are present, the absence of any antecedent freehold estate and present immediate beneficial enjoyment by possession, physical or notional. Therefore, in my judgment Pt. IV does not apply to the present case. The persons entitled on the expiration of the term to a life interest in an undivided moiety then contended that although not tenants for life under s. 19 of the Settled Land Act, 1925, they were persons having the powers of a tenant for life under s. 20 (1) (viii), because their estate or interest was in possession as distinct from in reversion or in remainder, and they came within the words of s. 20 (1) (viii), if by means of the Interpretation Act the singular was read as including the plural. That being so, they maintained that the case fell within Pt. II paras. 3, 5 and 6 (*c*) of the first schedule to the Law of Property Act, 1925. They claimed to be tenants for life within para. 6 (*c*), because by s. 205 (1) (xxvi) "tenant for life" included a

person "who has the powers of a tenant for life under this Act, and also (where the context requires) one of two or more persons who together constitute the tenant for life or have the powers of a tenant for life." They therefore said the legal estate of the entirety was vested in them. But in my judgment these two persons are not persons having the powers of a tenant for life because "land" in the new Settled Land Act does not include an undivided share in land. You cannot satisfy the word "land" in s. 20 (1) (viii) by producing and adding together two undivided moieties of land when undivided shares of land are in terms excluded from the definition of "land" in the Settled Land Act, 1925. This is a case of a settlement, that entirety being settled under the will where there is no tenant for life and no person having the powers of a tenant for life. Therefore the trustees of the will have the powers of a tenant for life and by virtue of paras. 5 and 6 (*c*) of Pt. II of the first schedule of the Law of Property Act, 1925, and of s. 23 (1) (*b*) of the Settled Land Act, 1925, the fee simple of the Lancashire estates is vested in them and powers of sale and exchange and other powers given to them by the will, will remain exercisable by them.

COUNSEL: *G. B. Hurst*, K.C., and *A. L. Ellis*; *Preston*, K.C., and *G. R. B. Whitehead*; *Jenkins*, K.C., and *H. T. Methold*; *Bennett*, K.C., and *G. G. Solomon*; *P. M. Walters*.

SOLICITORS: *Bower, Cotton & Bower*; *Maples, Teesdale and Co.*, for *Lord & Parker*, Worcester; *Peake, Bird, Collins and Co.*; *Smith, Fawdon & Low*, for *Wright, Woodrow and Aysom*, Leicester.

[Reported by L. M. MAY, Esq., Barrister-at-Law.]

High Court—King's Bench Division

Ellis *v.* **Sampson and Another.** Acton, J. 20th June.

LAND—SOLD IN LOTS—TITHE RENT-CHARGE—AGREED APPORTIONMENT—MISTAKE IN AMOUNT OF TITHE RENT—DEDUCTION BY PURCHASER OF INCREASED AMOUNT FROM PURCHASE PRICE—CLAIM BY VENDOR AGAINST SOLICITOR FOR ALLEGED NEGLIGENCE.

The defendants, solicitors, drew up an agreement for sale of land dated the 15th July, 1926, in which a tithe rent-charge of £6 9s. was stipulated. On the 7th July, 1926, the vendor received a demand note for a tithe rent of £10 17s. 9d. The defendants were not aware of this when the agreement was drawn up; the purchaser deducted the sum of £74 2s. 10d. from the purchase-money as a result of this increased tithe, and the vendor, the plaintiff, claimed damages for negligence from the defendant solicitors.

Held, that the defendants had not acted negligently in any way.

The plaintiff in this action, James Ellis, of Park Lodge, Uxbridge, Middlesex, claimed from the defendants, Greene and Greene, solicitors, of Bury St. Edmunds, Suffolk, damages for alleged negligence in respect of advice and transactions relating to certain property belonging to the plaintiff. The plaintiff pleaded that in July, 1926, he instructed the defendants to act for him in the sale to Harvey George Frost of certain freehold property, part of an estate known as Hardwick Estate, near Bury St. Edmunds. An agreement of the 15th July was signed by the plaintiff and Frost, whereby it was agreed that Frost should buy the property for £1,350. It was an express term that the property was sold to Frost subject to the conditions of sale on which the plaintiff had bought it at an auction held on the 14th May, 1925. The agreement stated that the amount of the commuted tithe rent-charge on the property, as apportioned upon the printed particulars provided at the aforesaid auction, should be £6 9s. The £6 9s. was the tithe rent-charge upon the property sold by the plaintiff to Frost, and this property formed part of a property upon the whole of which a tithe rent of £9 9s. was chargeable. On the 7th July, 1926, the plaintiff received a demand note for a larger amount of tithe rent, namely, £15 18s., instead of £9 9s. This increase raised the amount of tithe rent payable on the property sold to Frost to £10 17s. 9d., instead of £6 9s., as agreed upon. The difference between these sums amounted to £4 8s. 9d., and the corresponding capitalised sum required for redeeming the tithe rent-charge amounted to £74 2s. 10d. Frost deducted this sum from the purchase-money. The plaintiff now claimed damages from the defendants for alleged negligence, as pleaded, in advising him that he was bound to compensate Frost for the discrepancy between the two sums £6 9s. and £10 17s. 9d., and that on completion of the sale and contrary to the terms of the conditions of sale they accepted a sum in payment which was less than the full purchase price of £1,350; and allowed Frost to deduct from the purchase price the sum of £74 2s. 10d. on account of the discrepancy without his authority and contrary to his express instructions by letter. The defendants pleaded that they were not negligent as alleged. They advised the plaintiff that Frost would not complete the sale without an allowance on account of the discrepancy mentioned, and that in their opinion, on the construction of the contract of sale, Frost was entitled to an allowance. They further pleaded that the advice was given to the best of their skill and ability and was reasonable and good advice and not negligent, and that the plaintiff with full knowledge of the allowance of the £74 2s. 10d. instructed them to proceed with the completion of the sale. Evidence was given by the plaintiff and his daughter, and for the defendants by S. J. M. Sampson, the senior partner of Greene & Greene.

ACTON, J., giving judgment, said it was a most unfortunate litigation against a solicitor for negligence; the amount involved was not serious, but the allegation of negligence was, and should be, approached with the greatest care. The property in question comprised land which carried different tithe rent-charges, some of the land may even have been exempt. Unfortunately firms of auctioneers had for some reason erroneously assumed that the land was under a tithe rent-charge as a whole, so they divided it up on the average basis of so much to the acre. The property, originally Crown land, changed hands a number of times, and a portion was eventually bought by Ellis from one Mitcham. This was called lot 6. Ellis sold a part of lot 6 to one Hewitt, to whom it was conveyed direct, the tithe rent being fixed at £3. On the part retained by Ellis the tithe rent-charge was £6 9s., making a total of £9 9s. on the whole land bought by him from Mitcham. Ellis decided to sell the remaining portion, and in due course he authorised Greene & Greene, his solicitors, to enter into a contract with Frost for £1,350. The contract was signed. By cl. 5 of the agreement it was provided that the tithe rent-charge should be £6 9s. On the 7th July, 1926, Ellis had received a demand note for a tithe rent of £10 17s. 9d. To my mind, it is abundantly clear that if the solicitors had heard of the contents, then some modification of the agreement of the 15th July would have been arrived at after investigations. Later it appears to have come to the knowledge of Frost that the amount in the agreement and the amount he would become liable to pay would be increased by £4 8s. 9d. Thereupon there arose a demand against Ellis for an allowance which would represent compensation as to this additional tithe rent-charge. The matter culminated on the 2nd September by Ellis attending the appointment for completion, and giving two letters to Sampson. All the documents in substance show that the money was to be accepted subject to the reduction for tithe rent stipulated by the purchaser. That Sampson did. The question now was whether Ellis is entitled to recover damages from Sampson for negligence. Counsel for the plaintiff very properly made the following admissions: that no negligence was suggested against Sampson up to and including the preparation of the agreement of the 15th July; that if the case stopped short at the advice given by Sampson, he was aware that the plaintiff had a grievance but not a legal cause of action. It seems to me that Sampson

was right in the view that he took. With regard to the interview of the 2nd September, I accept the letters from the plaintiff as representing the true facts as to what the plaintiff intended to take place, and what did in fact take place, that is, that Sampson was told to take the purchase-money less the £74 2s. 10d., but Ellis reserved to himself all rights he might have against other persons involved in the previous dealings with the property. Sampson having done that, it seems to me that in anything he did he was not acting otherwise than within the limits of his professional duty. I have come to the conclusion that the plaintiff's case fails and negligence is not proved against the defendants.

COUNSEL: For the plaintiff, *Claud Mullins;* for the defendants, *Hawke*, K.C., and *Storry Deans*.

SOLICITORS: For the plaintiff, *Sidney Smith & Son;* for the defendants, *Whites & Co.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Midland Bank, Ltd. *v.* **Commissioners of Inland Revenue.**

Rowlatt, J. 21st and 25th July.

REVENUE—STAMP—RECEIPT FORMS—FOR SUMS UNDER £2—NOT CHEQUES OR RECEIPTS—DOCUMENTS ENTITLING A PERSON TO PAYMENT—SUBJECT TO STAMP DUTY—STAMP ACT, 1891 (54 & 55 Vict., c. 39), s. 32—FINANCE ACT, 1918 (8 & 9 Geo. 5, c. 15), s. 36.

Receipt forms designed to serve the purpose of cheques were issued by a bank for the use by their customers in the case of sums under £2. It was intended that those forms might be transferred by a customer to a third person and cashed by him.

Held, that although the forms were neither cheques nor receipts in the strict sense, they were documents entitling a person to payment by another person within the meaning of s. 32 of the Stamp Act, 1891, and as such, were subject to stamp duty.

In May, 1927, the appellants, the Midland Bank, Ltd., announced to the public that they had devised a new means of payment to overcome the requirement of a stamp on every cheque drawn for however small a sum. A "book of receipts" could in future be obtained by their customers, free of charge, which, being available only for the payment of sums under £2, would not require to be stamped. The receipt form, somewhat similar in appearance to a cheque, was worded as follows:—"Received of the Midland Bank Ltd. . . . Branch, the sum of . . .", and provided space for the date, the amount in words and figures, and the customer's signature. When filled in, the receipt might be presented for payment in cash at the branch on which it was drawn, or handed to a tradesman or other creditor in settlement of a debt. In this and several other respects it possessed the advantages of the cheque. One, G. E. Baldry, a customer of the appellants' Threadneedle-street branch, signed and delivered to the appellants a request as follows, on a printed form supplied by the appellants for the purpose:—"Midland Bank Limited. Threadneedle-street Branch. I/We request you to allow me/us to withdraw from time to time from my/our account with you sums under £2 each against delivery to you of receipts addressed to you and duly signed by me/us and I/we authorise you to pay the amount of such receipts to the bearer thereof and to debit the same to my/our account. Dated this 24th day of June, 1927. (Signature) G. E. Baldry. Address—9, St. Mildred's-court, Poultry, E.C.2." A book of detachable forms was duly supplied. On the 24th June, 1927, Baldry received from one, James, the sum of 10s. Baldry discharged the liability thus created by signing for 10s., one of the forms detached from his book of receipts, and handing it to James. James, also a customer of the Threadneedle-street branch of the appellants, delivered the instrument to the cashier at that branch over the counter. The document was accepted and Baldry's account debited with the sum of 10s., and James's account credited with the like sum. The endorsement "Paid 24th June, 1927," was stamped on the instrument by the appellants. On the 30th June, 1927, one Beaumont, paid to Baldry the sum of 10s., and Baldry again met his obligation by means of a receipt form. Beaumont was a customer of Coutts and Co., bankers, and he delivered the instrument to Coutts and Co.'s cashier, with instructions to obtain payment of the sum of 10s. from the appellants. Coutts and Co.'s representative attended at the Threadneedle-street branch of the appellants on the 2nd July, 1927, and requested payment of 10s. in exchange for the instrument. This was effected and Baldry's account debited with the amount. "Paid 2nd July, 1927," was stamped by the appellants on the instrument, which was also endorsed "Coutts and Co. Strand 11." On the 28th June, and the 4th July, 1927, copies of the two instruments above referred to were presented on behalf of the Midland Bank Ltd., by their solicitors, to the Commissioners of Inland Revenue under the provisions of s. 12 of the Stamp Act, 1891, for their opinion as to the stamp duty, if any, with which the instruments were chargeable. The Commissioners were of the opinion that each of the instruments was a bill of exchange within the true intent and meaning of the Stamp Act, 1891, and, being payable on demand, or at sight or on presentation, was chargeable with the duty of twopence under that Act, and s. 36 of the Finance Act, 1918. The appellants, being dissatisfied with the determination of the Commissioners, in pursuance of s. 13 of the Stamp Act, 1891, required them to state a case. The question for the opinion of the court was whether each of the instruments presented was chargeable with the duty of twopence applicable to a bill of exchange payable on demand, or, if not, whether it was liable to any duty, or if it was exempt from duty.

ROWLATT, J., read a considered judgment as follows: In this case the facts and documents make it abundantly clear that these so-called receipts were designed to serve the purpose of cheques, in that they were intended (to use the most neutral term that occurs to me) to put the money at the disposal of the persons to whom they were handed. They are not, however, cheques, and if it had been attempted to tax them as such because the transaction might have been effected by cheques, that attempt would have been defeated by the well-known principle exactly exemplified in the *Commissioners of Inland Revenue* v. *Angus*, 23 Q.B.D. 579. That is the point of that case. Here the tax is claimed not as if the documents had been cheques, or anything else which they are not, but because (so it is said) they are in themselves "documents entitling" a person to a payment by another person—which is a substantive subject of tax. I say "in themselves," because that raises a question which must be faced. If there is another advantage which accrues to the holder of a document by virtue of another arrangement *dehors* the document, the effect of that arrangement cannot be imputed to this document (if I may use that expression) so as to attract to it any duty to which a document embodying such an arrangement would be liable. That is made clear by *Brown, Shipley & Co.* v. *Commissioners of Inland Revenue*, 39 Sol. J. 720; 1895, 2 Q.B. 598. Counsel for the appellants says that this is such a case, and, if it is, he is right. He contends that what the recipient of this document gets is the benefit of a promise to him by the person who signs it that the bank will pay the money. But the Crown are not asking for duty as upon such a promise and counsel for the appellants does not say that they are. What he is really saying is a totally different thing, namely, that in considering what the document itself does, one has to look at the mere words in the document in the abstract, apart from the function of the document as intended and understood by the parties who employ it. That proposition, as it seems to me, receives no support from *Brown, Shipley & Co.* v. *Commissioners of Inland Revenue, supra*, and is negatived by the decision in *Rothschild & Sons* v. *Commissioners of Inland Revenue*, 38 SOL. J. 363; 1894, 2 Q.B. 142, where Mathew, J., at pages 146 and 147, treats

himself as entitled to have regard to "what the document is and how it is used." What, therefore, is this document, and how is it used? It is referred to as a receipt. But it is not a receipt unless and until it is used as such by being given as an acknowledgment of payment. When the person signing it gives it to his creditor he is not giving a receipt, and if it were for an amount of £2 or upwards he would not incur a penalty under s. 103 of the Stamp Act for giving a receipt not duly stamped. What, then, is it when it is used as it is here? The words of it, upon which counsel for the appellants says we are to concentrate, describe nothing occurring between the signatory and the recipient, and unless we are permitted to inquire what is the meaning of its existence in the hands of the bearer we must say that, as a document it has at this stage effected nothing at all; it has not indeed come into operation. If, as I think, this inquiry cannot be excluded, we find that it has effected something; that it has come into operation as a delivered document, and that (subject to one question as to the meaning of the word "entitled") its function has been to entitle the recipient to payment of the sum mentioned in it. Counsel for the appellants correctly pointed out that the holder of this document cannot sue the bank, nor, upon the document itself, the signatory. I think, however, that the case of *The Committee of London Clearing Bankers* v. *Commissioners of Inland Revenue*, 40 Sol. J. 403; 1896, 1 Q.B. 542, shows clearly that no such right of action is necessary to bring a document within the phrase under discussion. For these reasons I think that my decision must be in favour of the Commissioners, with costs.

Counsel: for the Appellants, *Rayner Goddard*, K.C., and *Andrewes-Uthwatt*; for the Crown, *The Attorney-General* (*Sir Douglas Hogg*, K.C.), and *J. H. Stamp*.

Solicitors: *Clarke, Rawlins & Co.*; *The Solicitor of Inland Revenue*.

[Reported by Charles Clayton, Esq., Barrister-at-Law.]

Court Papers: Vacation Notice.

High Court of Justice.

LONG VACATION, 1927.

NOTICE.

During the Vacation, up to and including Monday, 5th September, all applications "which may require to be immediately or promptly heard," are to be made to the Hon. Mr. Justice Clauson.

Court Business.—The Hon. Mr. Justice Clauson will, until further notice, sit in the Lord Chief Justice's Court, Royal Courts of Justice, at 10.30 a.m., on Wednesday, in every week, commencing on Wednesday, 3rd August, for the purpose of hearing such applications of the above nature, as, according to the practice in the Chancery Division, are usually heard in Court.

No case will be placed in the Judge's Paper unless leave has been previously obtained or a Certificate of Counsel that the case requires to be immediately or promptly heard, and stating concisely the reasons, is left with the papers.

The necessary papers, relating to every application made to the Vacation Judges (see notice below as to Judges' Papers), are to be left with the Cause Clerk in attendance, Chancery Registrars' Office, Room 136, Royal Courts of Justice, before 1 o'clock two days previous to the day on which the application is intended to be made.

Urgent Matters when the Judge is not present in Court or Chambers.—Application may be made *in any case of urgency*, to the Judge personally (if necessary), or by post or rail, prepaid, accompanied by the brief of Counsel, office copies of the affidavits in support of the application, and also by a Minute, on a separate sheet of paper, signed by Counsel, of the order he may consider the applicant entitled to, and also an envelope, sufficiently stamped, capable of receiving the papers, addressed as follows: "Chancery Official Letter: To the Registrar in Vacation, Chancery Registrars' Office, Royal Courts of Justice, London, W.C.2"

On applications for injunctions, in addition to the above a copy of the writ must also be sent.

The Papers sent to the Judge will be returned to the Registrar.

The address of the Vacation Judge can be obtained on application at Room 136, Royal Courts of Justice.

Chancery Chamber Business.—The Chambers of Mr. Justice Astbury and Mr. Justice Clauson will be open for Vacation business on Tuesday, Wednesday, Thursday and Friday in each week, from 10 to 2 o'clock.

King's Bench Chamber Business.—The Hon. Mr. Justice Clauson will, until further notice, sit for the disposal of King's Bench Business in Judge's Chambers at 10.30 a.m. on Tuesday in every week, except the first week, when the Judge will sit on Thursday, 4th August.

Probate and Divorce.—Summonses will be heard by the Registrar, at the Principal Probate Registry, Somerset House, every day during the Vacation at 11.30 (Saturdays excepted).

Motions will be heard by the Registrar on Wednesdays, the 10th and 24th August and the 7th and 21st September, at the Principal Probate Registry at 12.15.

Decrees will be made absolute on Wednesdays, the 3rd, 17th and 31st August, and 14th and 28th September.

All Papers for making Decrees absolute are to be left at the Contentious Department, Somerset House, on the preceding Thursday, or before 2 o'clock on the preceding Friday. Papers for Motions may be lodged at any time before 2 o'clock on the preceding Friday.

The Offices of the Probate and Divorce Registries will be opened at 10 a.m. and closed at 4 p.m., except on Saturdays, when the Offices will be opened at 10 a.m. and closed at 1 p.m.

Judge's Papers for Use in Court.—Chancery Division.—The following Papers for the Vacation Judge are required to be left with the Cause Clerk in attendance at the Chancery Registrars' Office, Room 136, Royal Courts of Justice, on or before 1 o'clock, two days previous to the day on which the application to the Judge is intended to be made:—

(1) Counsel's certificate of urgency or note of special leave granted by the Judge.

(2) Two copies of writ and two copies of pleadings (if any).

(3) Two copies of notice of motion, one bearing a 10s. impressed stamp.

(4) Office copy affidavits in support, and also affidavits in answer (if any).

N.B.—Solicitors are requested when the application has been disposed of, to apply at once to the Judge's Clerk in Court for the return of their papers.

Vacation Registrar.—Mr. Synge (Room 188).

Chancery Registrars' Office,
Royal Courts of Justice.
July, 1927.

Vacation Notes.

INNER TEMPLE LIBRARY.

The Inner Temple Library will be closed during the month of August, re-opening on 1st September.

Hours: 1st to 20th September, 10 till 2 (closed on Saturdays); 21st to 30th September, 10 till 4 (Saturdays 10 till 2).

MIDDLE TEMPLE LIBRARY.

The Middle Temple Library will be closed on Bank Holiday, Monday, 1st August. It will also be closed from Thursday, 1st September, to Thursday, 15th September, and from that date until Monday, 3rd October, the hours of opening will be 10 a.m. to 4 p.m.; Saturdays, 1 p.m.

LINCOLN'S INN LIBRARY.

Lincoln's Inn Library will be closed on Monday, 1st August. During the vacation it will be open between the hours of 11 a.m. and 4 p.m., Tuesdays, 11 a.m. to 5 p.m.; closed on Saturdays. It will be closed during the last ten days in August.

GRAY'S INN LIBRARY.

Gray's Inn Library will be closed on Monday, 1st August. It will be open as follows during the Long Vacation: Tuesday, 2nd August, to Tuesday, 20th September, 10 a.m. to 1 p.m.; closed on Saturdays. From Wednesday, 21st September, until further notice, it will be open between the hours of 10 a.m. and 4 p.m.; closed on Saturdays.

THE UNION SOCIETY.

The Union Society of London will re-assemble for the Session 1927–28, on Wednesday, 12th October next. The subject of the debate will be announced in due course.

THE TEMPLE CHURCH.

After Divine Service on Sunday, the 31st inst., the Temple Church will close for the Long Vacation, and will re-open on Sunday, 2nd October.

CENTRAL CRIMINAL COURT.

There will be no Session held at the Central Criminal Court during the month of August. The next Session will commence on Tuesday, 6th September next, at the Old Bailey, at 10 o'clock.

MASTERS IN CHAMBERS.

Master Jelf will act as Long Vacation Master from Tuesday the 2nd August, to Saturday, the 3rd September next, both days inclusive. From Tuesday, the 2nd August, up to and including Saturday, the 6th August, Master Moseley will also sit in Masters' Chambers. On Monday, the 5th September, Master Whateley will then take over the duties of Long Vacation Master, and on Monday, the 3rd October, up to the end of the Long Vacation, he will be assisted by another King's Bench Master.

THE LAW SOCIETY.

The Law Society's Offices will be closed from Friday, the 29th inst. at 4 p.m., until the following Tuesday, 2nd August, at 10 a.m. From that date until Friday the 30th September the hours of opening will be from 10 a.m. to 3 p.m.; Saturdays 10 a.m. to 1 p.m. The Hall, Libraries and Common Room will be closed from 2.30 p.m. on Saturday the 30th inst. until 9.30 a.m. on Tuesday the 2nd August. During the vacation they will be open between the hours of 9 a.m. and 6 p.m., except on Saturdays, when they will be closed at 2.30 p.m. The Students' Rooms and West Library will be closed on Monday, the 1st August. They will be open during the Long Vacation from 9 a.m. to 6 p.m.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to confer the honour of Knighthood upon Mr. ANTHONY DE FREITAS, O.B.E., Chief Justice of the Colony of British Guiana.

The King, on the recommendation of the Home Secretary, has appointed Mr. JOHN HENRY HARRIS, barrister-at-law, to be Recorder of Portsmouth to fill the vacancy caused by the death of Mr. G. W. Ricketts. Mr. Harris was called to the Bar by the Inner Temple in 1900 and went to the Western Circuit.

The King has approved a recommendation of the Home Secretary that Sir HARRY COURTHOPE-MUNROE, K.C., M.A., shall be appointed Recorder of Sudbury, to succeed the late Mr. C. M. Le Breton. Sir Harry Courthope-Munroe was called to the Bar in 1883, and took silk in 1914.

Mr. HERBERT ALFRED EDWARD HEY, solicitor, Arundel, has been appointed Clerk of the Arundel Petty Sessional Court. Mr. Hey was admitted in 1905.

Mr. ROBERT F. POLLOCK, solicitor, has been appointed Deputy Town Clerk of Kilmarnock and Deputy Clerk to the Dean of Guild Court and the Licensing Court.

The Freedom of the City of Rochester was, on Thursday, the 21st July, conferred on the late Town Clerk, Mr. APSLEY KENNETTE, in recognition of his long and valued services to the city.

Mr. J. H. STOCKDALE, solicitor, who recently resigned the Clerkship to the Tipton Urban District Council, has been presented with a silver tea service by the officers and staff of the council and with an illuminated address by the chairman, vice-chairman and members. Mr. Stockdale, who was admitted in 1887, was appointed Clerk to the Council in 1905, and also held the appointment of Clerk to the Old Age Pension Committee. He is senior partner in the firm of Messrs. Stockdale & Brown, solicitors, of Tipton and Wednesbury.

Mr. J. H. DORAN has been appointed Assistant Clerk to the Bebington and Bromborough Urban District Council.

The Property Mart.

In announcing the sale by Messrs. Tuckett, Webster & Co of the Leasehold Interest in No. 8 Copthall Avenue, E.C., in our issue of the 23rd inst., the premises were inadvertently referred to as No. 6 Copthall Avenue.

VALUATIONS FOR INSURANCE.—It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is generally very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers, and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-à-brac a speciality.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 4½%. Next London Stock Exchange Settlement, Thursday, 11th August, 1927.

	Middle Price 27th July	Interest Yield.	Yield with Redemption.
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	84½	4 14 6	—
Consols 2½%	54⅝	4 11 6	—
War Loan 5% 1929-47	101¼	4 19 0	4 19 0
War Loan 4½% 1925-45	95⅝	4 14 6	4 17 0
War Loan 4% (Tax free) 1929-42	101⅛	3 19 0	3 19 6
Funding 4% Loan 1960-90	86 1/16	4 12 6	4 14 0
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years	93⅜	4 6 0	4 9 6
Conversion 4½% Loan 1940-44	96⅝	4 13 6	4 16 0
Conversion 3½% Loan 1961	76⅛	4 12 0	—
Local Loans 3% Stock 1921 or after	63⅞	4 14 0	—
Bank Stock	250½	4 16 0	—
India 4½% 1950-55	93¾	4 16 0	4 19 6
India 3½%	71¼	4 18 0	—
India 3%	61⅛	4 18 0	—
Sudan 4½% 1939-73	92¾	4 17 0	4 18 0
Sudan 4% 1974	84½	4 15 0	4 18 6
Transvaal Government 3% Guaranteed 1925-53 (Estimated life 19 years)	80¾	3 14 0	4 12 6
Colonial Securities.			
Canada 3% 1938	84	3 12 0	4 18 6
Cape of Good Hope 4% 1916-36	93¾	4 5 6	5 0 0
Cape of Good Hope 3½% 1929-49	80	4 8 6	5 0 6
Commonwealth of Australia 5% 1945-75	97¾	5 2 0	5 2 6
Gold Coast 4½% 1956	93½	4 16 0	4 18 0
Jamaica 4½% 1941-71	92½	4 17 6	4 19 0
Natal 4% 1937	93¼	4 6 0	4 19 6
New South Wales 4½% 1935-45	90¼	5 0 0	5 9 0
New South Wales 5% 1945-65	97⅜	5 3 0	5 4 0
New Zealand 4½% 1945	96¼	4 14 0	4 18 6
New Zealand 5% 1946	101⅛	4 19 0	4 19 0
Queensland 5% 1940-60	98½	5 2 0	5 3 6
South Africa 5% 1945-75	101⅝	4 18 6	4 19 0
S. Australia 5% 1945-75	97⅜	5 2 6	5 3 0
Tasmania 5% 1945-75	98¾	5 1 0	5 1 6
Victoria 5% 1945-75	98½	5 1 6	5 3 0
W. Australia 5% 1945-75	97¼	5 2 6	5 3 0
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corpn.	62¼	4 17 0	—
Birmingham 5% 1946-56	103¼	4 17 6	4 17 0
Cardiff 5% 1945-65	101¾	4 18 6	4 19 0
Croydon 3% 1940-60	69¼	4 7 6	5 0 0
Hull 3½% 1925-55	77¾	4 10 0	5 0 0
Liverpool 3½% on or after 1942 at option of Corpn.	73	4 16 0	—
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	53¼	4 14 0	—
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	63	4 16 0	—
Manchester 3% on or after 1941	62¼	4 16 0	—
Metropolitan Water Board 3% 'A' 1963-2003	62¾	4 16 6	4 18 0
Metropolitan Water Board 3% 'B' 1934-2003	65	4 12 6	4 15 0
Middlesex C. C. 3½% 1927 47	82	4 5 6	4 17 0
Newcastle 3½% irredeemable	71¼	4 19 0	—
Nottingham 3% irredeemable	62½	4 16 0	—
Stockton 5% 1946-66	100¼	5 0 0	5 0 0
Wolverhampton 5% 1946-56	102¼	4 18 0	4 18 6
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	79½	5 0 6	—
Gt. Western Rly. 5% Rent Charge	97	5 3 0	—
Gt. Western Rly. 5% Preference	93¾	5 7 0	—
L. North Eastern Rly. 4% Debenture	74½	5 7 6	—
L. North Eastern Rly. 4% Guaranteed	70¼	5 12 6	—
L. North Eastern Rly. 4% 1st Preference	63½	6 6 0	—
L. Mid. & Scot. Rly. 4% Debenture	78½	5 2 6	—
L. Mid. & Scot. Rly. 4% Guaranteed	76¼	5 5 6	—
L. Mid. & Scot. Rly. 4% Preference	71½	5 12 6	—
Southern Railway 4% Debenture	77¾	5 3 0	—
Southern Railway 5% Guaranteed	97½	5 2 6	—
Southern Railway 5% Preference	90	5 11 0	—

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